

513. K. 15

(2).



L A D I X^{me} P A R T
des Reports de S^r. Edw. Coke
Chiualier, chiefe Justice Dengleterre des
plees deste tenus deuant le Roy mesme assignee, & del
Counseil prive d'Estat : des diuers Resolutions & Juge-
ments donez sur solennes arguments & avec grand deliberation &
conference des tresreuerend Iuges & Sages de la Ley, de cases in Ley queux
ne fueront vnques resolus ou adiuges par deuant : Et les raisons & cautes
des dits Resolutions & Jugemens.

Publie en la vnziesme an de treshaut & tres-
illustre I A Q V E S Roy Dengleterre, France, &
Ireland, & de Escosse le 47. Le founteyne de tout
Pietie & Justice, & la vie de la Ley.

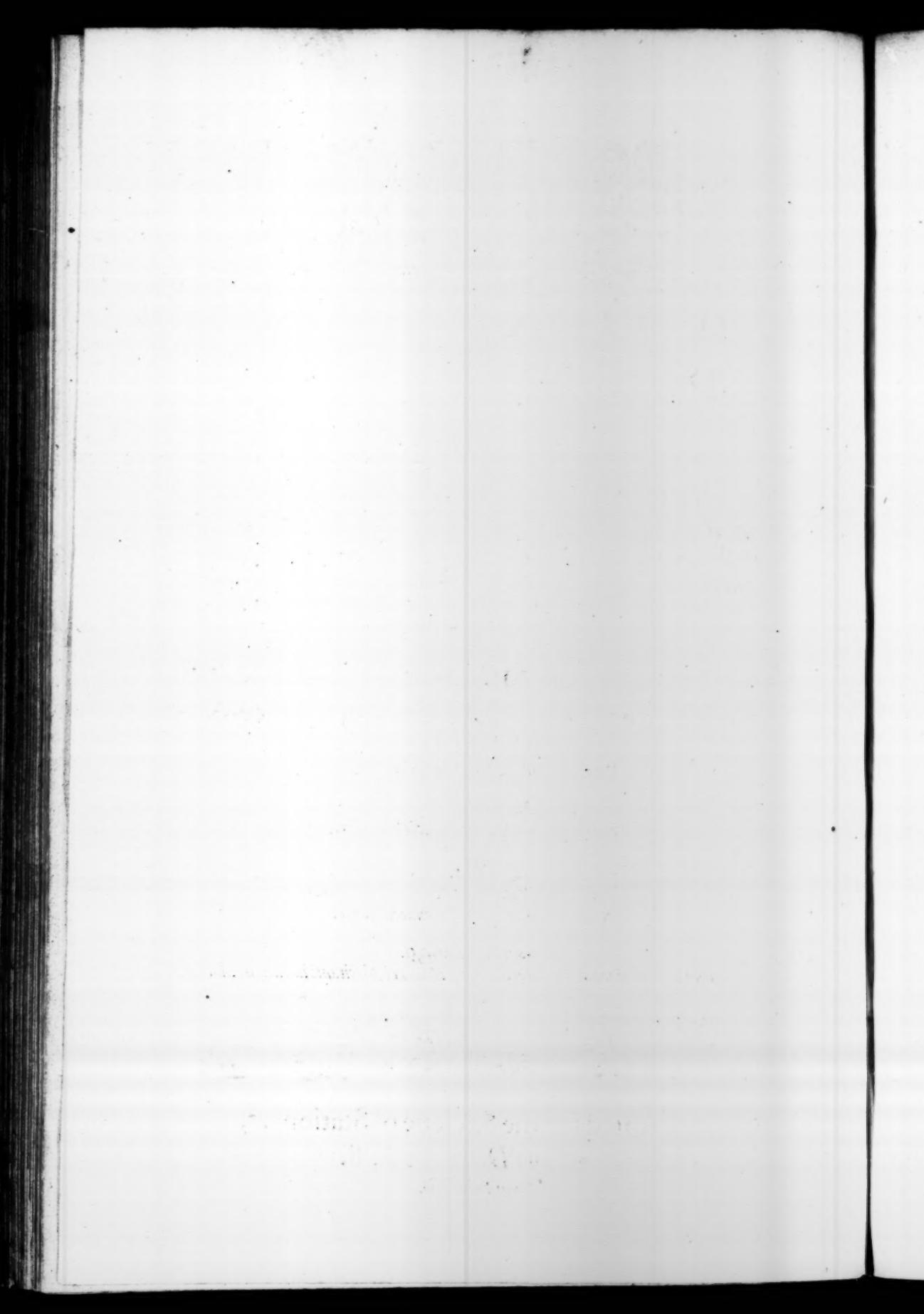
Deo duce,
Lex tibi quod iustum est, Iudicis ore refert.

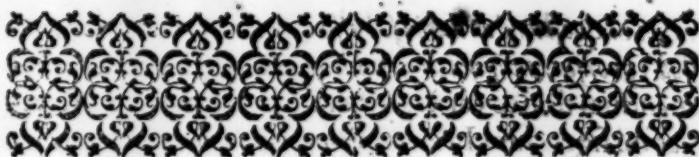
I E R O M.
Iustitia non nouit Patrem, Matrem, neque Fratrem;
personam non accepit, sed Deum imitatur.

W E S T M. 2. cap. 39.
Ad officium Iusticiariorum spectat, unicuique coram eis placitanti iustitiam exhibere.



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D E O ,
P A T R I A E ,
T I B I .

Vm à publicis meis ministratibus quandoque vacarem (assitâ alacriter Industriâ (mibi ex more solito perquam familiari) in Consortem , saluteq; meæ dulcissime patriæ cogitatâ , in consolatione) precibus hijs etiam atq; etiam exorsus assiduis , Adsit amicitias Iehouæ Dœi nostri nobis , Et opus manuum nostrarum iustitiae in nobis , ipsum inquam opus manuū nostrarū institue , propitio Omnipotentis denuo & auxilio , decimum hoc meum opus , à docto & beneuolo Lectore contemplandum , edidi & in lucem protuli : Psal. 90 v. 17.

Veram pars hæc & fidelem continet Relationem quorundam Iudiciorum & Sententiarum , in eminentioribus sue Magistatis Curijs Iustitiae administrandæ , summâ atque maturâ deliberatione latorum , casibus tantiponderis & momenti , quæti hij superiorum meorum Commentariorū , quicunq; fuerunt . Laborem hunc ego (mibi sanè difficilem plus satis) suscepimus immo & perfeci , ad delinandum id quod metuendo veritas ipsa veneranda erubescit , nimirum , ne illa , à qua habet Iustitia firmamentum , lateret minus cognita : Veritas abscondi erubescit , nihil enim magis metuit quam non proferri in publicum ; vult se in luce collocari , & quis illam occultat , occultet ue , quam omnium oculis expositam esse est æquissimum ? verum semel inuenta & patefacta iterata

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reduci in questione et dubio subesse (quasi veritas reuera non esset) prorsus indignatur ; unde regula est , Eatenuis rationandum donec veritas inueniatur , vbi iuuenta est veritas ibi figendum Iudicium ; nonnunquam enim nimia altercatione veritas amittitur : verborum elegantia florue fragantiâ se vestiri nequaquam curat , Simplex enim est sermo veritas , πάντα τοις φυσικοῖς. Cuius sedes cum sit inter Cor & Caput , utrumque participat , ex capite nempe Iudicium , ex corde Simplicitatem . Necesse necne sit (ad veritatem euehendam , erroriq; rebus tantis viam precludendam) veras certasq; horum Iudiciorum et Sententiarum tum rationes tum causas (que in actis publicis haud exprimuntur) posteritati roniuersae plane fideq; diuulgari . Lectoris docti & discretoris censurâ terminandum relinquo .

I Retuli primum (temporis licet serie non fit primus) casu de Xenodio Regis Jacobi , à Thoma Sutton armig' fundato , merito quonia (vt opinor) precedat , duplice in ob causam , 1. qd' in camera Scaccarij agitabatur , vbi altissimâ illâ Inquisitione , omnium Angliae Iuditium veredicto , pro Zenodio Billa vera pronunciabatur ; 2. quod huius Xenodij fundatio est , opus sine exemplo . Malorum imitatio exemplum plerurq; superat , bonaorum vero consecratio , nimis manca , exemplar scepisci me non attingit : Hoc vero Charitatis opus , quæcunq; nouit Orbis noster Christianus fundamenta , antecellit omnibus , immo dicam , huiusc in star seculorum omnium nusquam vidit oculus : prima enim à Sutton donatio Dominiorum , prædiorum , fundorum & tenementorum in perpetuâ sustentatione eiusdem remansorum , 3500. li annui valoris plus minus attingit , et non ita multos post annos ad aynualem summam 5000. li proueniet . Probatio Charitatis exhibitio operis . Quin et Sutton præterea reliquit de censurum Aëtori (viro plebeio) prædiu de Tarbocke in comita Lancastria , se extendens in propria pariter ac antiquâ domu , bina viuaria & latifundia proceris condiquaq; referta arboribus ad annum valorem 300. li . & ultra hoc 50. li . redditus antiqui per annum , vna cū Re-

Annus valor
possessionum
prius datarū.

Etoria

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Etoria de infra comitatū eundē, que valet 100.l. per ann.

Ampli huius celeberrimi Penodij prouentus in quatuor prae-
cipue v̄sus & propofita instituuntur : 1. in dignos illos innip-
tos Duces, Praefectos, militesue subleuandos, qui in bello v̄sque
ad necē Reip. causa aucti sunt, iamq; emeriti in res angustas in-
ciderunt, & infirmi sunt: 2. ad captiuos indigentes redimendos,
illos praesertim qui, misera sub seruitudine Infidelium, fidē suā
Religionem q; orthodoxam constantē profesi sunt: 3. ad pub-
licum Ludū literariū constituendū, doctumque Ludimagistrū
& Hypodidascalū sustentandos, qui pauperum pueros bonis tū
literis tum moribus erundiant, quo otium malorū omnium ra-
dix evitetur: 4. Necessaria hoc Xenodiū Theologo graui & do-
cto suppeditabit, ad residentes singulos infra Xenodium prae-
dicato sacro Dei verbo instruendos, & ad sacrosancta My-
steria ritē celebranda, tum & juvenes in vera religionis e-
lementis catechizandos: Qui, & alij, vt perficiantur v̄sus,
Fundator insuper ingentes pecuniarium copias, in manus Exe-
cutorum suorum Richardi Sutton armigeri & Iohannis
Law generosi, depositit.

Hoc pietatis & charitatis opus spatiofis illis & augustis
fundatur tectis quibus nōmen est Le Charterhouse in Paro-
chia Sancti Sepulchri in Comitatu Middlesex' quibus con-
tigue adiacent horti & pomaria amoenissima, & infra eius-
dem circuitum viginti numerantur iugera, unde dici potest
tanquam Orbis in Vrbe, locus sanè (vt memorandis &
Historiā videre est) operibus pietatis & charitatis à Deo dé-
stinatus: Nam Dominus Gualterus Many Hanonensis (que-
cu n strenue in bello Gallico summo omnium applausu se ges-
sisset, Rex Edwardus 3. aurea periclidis ordine decorasset)
peste iam tum in Londino ita vbiique grāssante, quid cemete-
ria ad sepelienda defunctorū cadavera (precipue inopum) non
satis fuerunt, emit Locum in quo celebre istud erigitur Xeno-
dium, & in sepulturam inopum Christianorum (qui dum
vixerunt tempa fuerunt Spiritus Sancti) dicauit: Audi
itaque monumentū inde publicum, Anno Dom. 1349. & anno
reg-

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regni Regis Edw. 3. 23. regnante magna pestilentia, consecratum fuit hoc cemeterium &c. in quo & infra septa eiusdem sepulta fuerunt mortuorum corpora plus quam quinquaginta millia: Cessante vero, ope diuinâ, pestilentia, idem Gualterus Many, Anno Domini 1371. & Regis Edw. 3. quadrageimo quinto, inibi fundavit monachos Chartuianos, qui virtus Lingua, monachi de le Charterhouse vulgo dicti fuerunt: Adeo ut solum hoc, quod olim Gualterus Many tum Eques tum miles ad inhumados defunctos inopes donauit, jam denuo Thomas Sutton tum armiger tum miles ad hospitandos inopes & infirmos viuos constituit & designauit: merito igitur hic spectat quod dixit Propheta ille regalis, Parasti, per bonitatem tuam, Pauperi Deus. Decisus, denique, fuit hic casus exultantibus multumque iubilantibus omnibus qui vel interfuerunt vel de iudicio quidquam audiuerunt, & hoc quatuor de casis, 1. Religionis nostrae in honorem, que talem pietatis et charitatis produxit opus, quale tota res pub. Christiana (si primum spectes fundamentum) nusquam produxit; 2. in regiae Maiestatis gloriam, cui ex congruo & condigno dedicatur, nomenque eius habet; 3. in pietatis simul ac charitatis incrementum, ne homines deterrerentur a pijs & bonis operibus, postremum vero, ut obstruatur os iniqua loquacitum Hoc denique (ut Religionis nostrae ornamentum) assertere volo, huiusmodi plura pietatis charitatisque facta fuisse opera ab initio regiminis nuper Reginae Eliz. aeternae pieq; memorie, sub aprico Euangeli splendore, quam multis seculis retro elaphis. Quin & hoc regnum Angliae (annuente Diuino numine) pietate, prouentibus, iucunditate, videlicet, hoc & eiusmodi pietatis operibus, 2. Coronae hereditate, Honorum scilicet, praediorum, fundorum &c. aliorumque annualium prouentuum certitudine, 3. Sylvis, saltibus, viuaribus, alijsque locis amoenis, amplissime totius orbis Christiani. Monarchiae antecelluisse obseruatur.

2. In casu deinde Mariæ Portington (in vniuersale principis et patriæ commodum) honorifica diuulgari funera fruuo

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friuclarum istarum nouellarumq; perpetuitatum partus portentosi ex mera inuentione ementiri, & Legis olim peritis planè ignoti; portentosum dico, quia ut apud Physiologos est, Monstra generantur propter corruptionē alicuius principij; dico nihilominus honorifica, eo qd' vermes isti in nobiles quamplurimas familias correperunt: quibus quidem insteti exequijs, & ad obliuionis sepulchra mortuas concomitauit, plangere autem nequirem, tibi tota Respubl. libera (ut loquimur) tenementa & hereditates, suis tandem se exoluisse compedibus, & damnata reipubl. quā plurima tum capiti tu membris singulis euitata fuisse, riumphabat. 3. Sequitur casus de Jennings, quem memoratum habes in caſu Mariæ Portington; et de communi ſtabilimento fundorum in hoc regno agit.

4 Casus de Lampet eſt proximus, ad perpetuitates dimiſionum pro multis annorum millibus deſtruendas.

5 Deinde caſus Academiæ Oxoniensis (celeberrimi Ecclesiæ & Reip. seminarij) in Religionis Orthodoxæ propagatiōne tendit, et quodā modo in meliore eruditiet religioſi minifteřij ex utriſq; Academijs Catabrigiæ et Oxonie ſuſtentationem.

6 Caſus Epifcopi Sarisburiensis, eſt contra diminutionem poſſeſſionum & annuorum reddituum Archiepifcoporum & Epiſcoporum huius gentis, & ſuſſorum ſuorū incommoda.

7 Caſus de Whistler diuersos continent articulos materiales de exponendis literis patentibus de hereditate, in rebus plurimis indies emergentibus.

8 Custodum ſue gardianorū Ecclesiæ parochialis sancti Saluatoris caſus literas patentes dimiſionum optimè expla- nat, quo ſecuri ſint Tenentes regij de poſſeſſione ſuo, & conſequenter multi alijs de hereditate & ſtatu ſuo.

9 In Curiæ Mareschaliſæ caſu, prima iuſtitutio et iuriſdičtio eiusdem Curiæ manifeſtē patet: Quamuis enim Lex ſatis nota fuerit, ante hunc caſum decretum, ex libris noſtriſ & memorandis temporum omnium ſuccelliū; ſicuti tamen flumi- num curſus, mæandros illapsus, & elapsus notoriè edocet ex- perientia vulgaris, dum fons ipſe interim abditè delitescit; ita

iſto

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isto de casu, Capacitatem processus & priuilegia huiusc fori, codices nostri annorum & terminorum saepius dijudicata habent, tum & iurisdictio eiusdem apud vulgus plenè intellecta fuit, quum interea, vera & originalis institutio, tanquam fons ipse, latebat admodum recondita & obscura, prius quam ab antiquitate indicata fuit, quæ tamen dilucide genuinum priorū actorum comitialium sensum, librorumq; nostrorum rationem, de vera huius Curia iurisdictione declarauit, quod & ipsi Opponentes, veneranda illuminati Antiquitate, à ratione vincuntur & autoritate se satisfactos habent: Culpandi igitur sūt, qui rerum antiquarum studium (comitem semper habens honorem) tanquam aridā & nimis retrospicientem curiositatē, vel temnunt vel saltem negligunt: Multa ignoramus quae non laterent, si veterum lectio fuit nobis familiaris.
Sicut miniator (de quo in Lege fit mentio) literam vel charactērem miniandum valde illustrat, sic Antiquitas summo cum decore & ornamento nos illustrat ad literam antiquorum statutorum, librorum & autoritatem in Lege, tum comprehendendam tum intelligendam. Similiter fieri de omnibus eius Maiestatis Curijs Iusticie mihi in votis est: quod quidem pluris laboris quam difficultatis est si quis codices nostros & in lege authoritates ordine euoluerit recteque intellexerit, & proculdubio magnum afferret Legi splendorem, quin & multas questiones, actiones, minus necessarias expensas, & dilationes anticiparet.

10 Casus Leonardi Loueis sibi maximè habet fundatum statuta 32 Hen.8.cap. 1, & 34.Hen.8.cap.5.de Testamentis, quæ sanciri videantur ad extorquenda Iuris prudentum ingenia; adeo multæ perplexæ & inuolutæ questions ex illa stirpe egerminauerunt: Adiuncto tamen hoc casu superioribus, in explanationem horum statutorum, à me relatim casui mempe de Butler & Baker in tertio meo Commentario fo.27. casui Georgi Curson equitis, in sexto meo Commentario fol.75. casui Richardi Pexall, in octavo meo Commentario fol. 83. casui de Might ibidem fol. 163. & casui Vigiliij

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Vigiliij Parker ibidem fo. 173. &c.) quo modo mihi persuadeo, si non omnia tamen maxima dubia & scrupuli ex illis enata statutis, in generalem totius regni pacem dirimuntur & amouentur. Sed hoc non obstante, viri circumspetii & considerati (uti spheri) dum adhuc integri sunt & sani, uxoribus, liberisque prospicient, & ex optimo Iurisperitorum confilio, res suas superstites disponent instrumento legali, quod, si velint, ad libitum reuocabile esse potest; & negotium hoc usq[ue] ad ultimam voluntatem non procrastinabunt, quae plerunque in extremis conditur (i& per paucis a mortis precursoribus pressis memoriae est dispositura) modo festinanter & sepiissime confilio imprudentum, & ita multis subditur controvrsijs de latentibus tenuris in capite alijsue tenuris per seruitium militare (in seculo hoc aquilino) prioribus concessionibus; alijsque rebus de facto, ut huiusmodi testamenta (ob consultationis et instructionis priuationem) superent ferè Iurisperitorum artem. Labes etiā nonnulla est & in famia viro, totius sue vitae curiculo, de prudentia & discretione, bene existimato, res suas difficultatis plenas uxori, liberis, seu cognatis post obitū suum relinquere. Res mediocres curisque solvae uxori liberis & cognatis longè sunt eligibiores, quam magis ample questionibus et molestijs inuolutae. Sed de hoc in conclusione casus de Butler & Baker paucula attexi: monitione idcirco hac subnexa, ad proximum casum properimus.

ii Casu Doctoris Leyfield sententia legis retegitur, de allegatis chartis & Sygraphis, in Curia monstrandis; ibique cautum est de periculo probandi per testes coram duodecimviratu Sygrapha et scripta, nullā illorum habitā monstratione, eo enim sit instrumenta erasa, interlita, aliasue adulterata, vel omissione verborum legalium in lege prorsus inuidia, vel reuocabilia, et quoad tenentes & emptores irrita (ibi supprimuntur, & eorum tenor illiteratorum testimonio confirmatur, nullā adhibitā hac in re directione) admissa fuisse ut authentica; postea verò re iterum agitata casuque melius inspecto, cum Curia demonstrari oportuisse scripta direxerit,

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erit, eorum inualiditas comparuit, rectumque valuit: quod in Curia de Banco Mich.5. Regis Jacobi inter Small & Blackledge, in curia Camerae Stellatae inter Greene & Eyer, &, ex quo *Judex fui, in Circuitu meo annotavi.*

12 Edwardi Seymer casus, agit de warrantijs, subtili sane doctrinæ genere, & emptori imprimis necessario; cingit enim non solum ense Vocationis, ad victoriam compensationis, recuperatione scilicet ad valorem, reportandam, sed scuto etiam, ad liberum tenementum & hereditatem propugnanda per formulam propellendi (apud nos, per voy de Rebutter) qui Legis Titulus (ni ne fallo) egregie curiosus & curiosè egregius. Le^to tamen hoc casu, plus in se habere momenti quam difficultatis, mecum consenties.

13 Proxime accedit casus de Beawfage, tam ut indemnes
Psal. 109. v. 10. sint Vicecomites eorumque ministri, quam ad extortionem eradicandum (crimen expilationis, quod in sacris scripturis in imprecatione illa in inimicos Dei malum illaqueans nuncupatur, Illaqueat expilator quicquid est illi, & diripient extra-nei laborem illius:) ubi etiam Statutum de 23 H. 6. cap. 10. in extortionem, perjurium & oppressionem editum (que ple-rung, inter se concatenantur) optimè explicatum habes.

14 Deinde sequitur casus de Denbawd, de concedendo Tales de circumstantibus ad assisas, ut melius expediatur explorationes; quo tam Vicecomites & ministri sui, quam partes, attornati & solicitatores sui monendi sunt, ne machinatione seu confederatiⁿe aliqua, directe vel indirecte, liberos tenentes iniquos & nimis amicos circu^stare, vel dolo malo Tales ascribi faciat, in subuersione veritatis & iustitiae, et actum perutile de 35. H. 8. c. 6. illudendum: ingens siquidem hoc est crimen, & graui multa, carcere, aliag. p^ana exemplariple Etendum.

15 20 Casus de Lofield & de Clun, reseruationes redi-tuū super dimissionibus ad terminum annorum &c. tractat, & quomodo exponentur; Et hos euoluant omnes necesse est, quia omnibus ferè interest.

16 Proximus est casus Arthuri Legat, contra depopu-landam

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landam Ecclesiam & Rempubl. coronam totamque hanc nationem, praetextu literarum patentium pestiferarum & prædabundarum de terris concelatis.

17. 18. Casus de Pilfold & de Cheyney de recto legalique modo damnorum taxandorum & inquirendorum, necessario admodum genere eruditissimis, eo quod errores (disspendij & dilationis causa) in illis frequentes fuerunt.

19. Inde tibi occurrit casus Maioris & Burgensium de Linne Regis in comitatu Norfolcie, ubi bene disceptatur quid in lege dicitur verum corporationis nomen, ne obligationes, pacta, dimissiones, concessiones, & instrumenta, curam nimis de tricis & curiositate, contra jus omne & fidem, impedianter & enerventur. Et, ut verum profitear, in nullo codicu[m] nostrorum inuenio, ab initio regni Edward' 3. usque regnum Edward' 6: obligationum, dimissionum, concessione[rum] sive instrumentorum vel unum, male nominatio[n]e corporationis causa irritum judicari: fenestellæ vero semel apertæ, qualia arrepta fuerunt lumina a corporationibus tam spiritualibus quam temporalibus, per questiones & in lege actiones, ad annullanda sui ipsorum dimissiones, concessiones, & instrumenta, in documentum quamplurimum & ruinam multorum, male nominationis praetextu, mirum est cogitare, immò bonos omnes dolet memorari: Sed motos præstat componere fluctus. Tum &, ut referatur hic casus, in causa fuerunt pax & quies tam occupantium & aliorum qui sub corporationibus aliquid sibi vendicant, quam et illarum, de pactis alijsque rebus eis habitis ut res magis valeat quam pereat.

21. Habis item casum de Osborne, ubi copiosè decernitur, quando verba male & incongrue Latina &c. destruit, viciat, vel ad nihilat brevia, instrumenta, chartas, scripta, vel recorda, et quando non.

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22 Casus de Read & Redman agit de Summonitione & Separatione, quo inuenies ubi mors partis seperata destruet breue; & ubi non; & ubi nonunquam mors unius Querentium, licet non separetur, non destruet breue originale &c.

23 Richardi Smith casus, est de Quare impedit de medietate &c. Ecclesiaz.

24 25 26 Euolues deinde quedam Iudicia in statuta & commissiones de Seweris, genus Doctrina notu perutile, executioni verò debitæ ut demandaretur multò magis necesse, nec pretextu inde priuatum sit occultè designatum, dum publicum aperte pretenditur. His etiam casibus benè differitur, quid commissionarij de Seweris fidè & indemniter ex eorum prudentia & arbitrio agant.

27 Casus denique de Scroope articulm de revocationibus tractat, eo magis notu dignum quod revocationes adeò nunc sunt frequentes: Et huius solius articuli decisio multis litibus abinde oritur, plerumque inter fratres & alios sanguine & affinitate proximos, obuiameat.

Si mirum cuiquam videatur (cum casus cuiusque particularis materiam angustæ circumscribant metæ, & Relatio mea pro more adeò compendiosa sit, summam referens totius dicti ex una parte seorsim, & sic vicissim ex altera, initium semper sumens ab obiectionibus, & in Iudicio & sententia Curia finem faciens (qua mihi videtur optima Relationis methodus) qua de causa casuum modò editorum nonnulli ita profuse se extendunt: in promptu causa est (à me tamen non approbata) nimirum, propterea quod questiones vel obiectiones pro tribunali ortæ, pariter ac argumenta e codicibus sumpta, aliisque in lege authoritates abundant. Et, vero verius dicam, plures questiones ex rei pondere quam è difficultate casus enascuntur; nunquam enim noui magni momenti casum pace agi, plurimis non adhibitis exceptioni-

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ceptionibus in retardationem Iudicij. Antiquus ille argumen-
tandi mos ad septum Curie per Seruientes ad legē & Juriscon-
sultos quos Apprenticios vocamus prorsus immutatur : 1. Iij
vix unquam librum vel autoritatem nominatim produxe-
runt, ut videre est in 40. E. 3. &c. sed Est tenus &c. vel si-
miles, qui modus in questionibus arguendis (quas vocamus
Moots le barre) in interiori Templo huc usq; retinetur : 2.
Eo temporis annotatio fuit generalis, vera autem semper in
particulari ; hodie, econtra, annotatio est particularis, multo-
cies vero abs re in generali: 3. Tunc rariissime prolati fuerunt
casus si non apte & ad re (& hic in arcem questionis inuadit)
nunc vero in prolixis admodum argumentis de farragine au-
thoritatum compositis, multa male opposita necesse est, que
semper argumentationem vel infirmant vel inficiunt. Huic fa-
cillime remedium apponetur, si res (quae agrum minus latum
occupat) prius nota fuerat, & deinde unusquisque causam pro
Tribunali tractaturus, vel congrua vel succincta eloquere-
tur.

Quoniam vero, mihi in votis est semperque fuit, tum
Iurisconsultis tum partibus satisfacere, (quamobrem Iu-
risconsultos singulos, qui causam discutiendam disputauen-
runt, sedulo attendere & interesse opportet, diebus Argu-
mentationum Iudicum, diu ante publice statutis & pre-
fixis) hac de causa (cum mei ipsius sit labor & res non si-
ne fructu suo) casus maioris momenti fusiū retuli,
summam totius vel obiecti vel discussi complectens : me-
tallicus tamen haud dubio expertus esse potest, qui venas
fæcundiores inuenit & sectatur, quanquam minores &
infæcundiores ignorat, circa has enim fortasse materiam
superabit opus. Hoc tantum a Iurisperitis vniuersis
cauendum adiçiam (cum, vt germanus Legis sensus ap-
prehendatur, disceptationes sua eniterentur, in meliorem Iu-
sticie administrationem ne faciant quod sit plane iniustitia:

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illum enim sentio, qui textum, codicem, seu in Lege autoritatem à proprio suo ac genuino intellectu sue torquet sue inservit, vel ad veritatem aliquam confirmandam, peccare in Iustitiam distributiam, cuius est Suum cuique trahi. Hīj denique (qui ipsa argumenta viua voce simul ac vultu gestuque viuorum, in Iustitia sede palamque in foro, pronunciata audiuerunt) ne quicquam credant, illo suo spoliari decore, cum, mortuo charactere, priuatim lecta fuerint, licet enim, Habeat nescio quā energiā viua vox, sumam tamen omnium, utrinque à viris diuersis varijsque vicibus de tribunali & pro tribunalibus dictorum, cum perlegerint, summam dico rerum multarum, immò inter se disparium, recollectarum, unitarum, & ad idem reductarum, de articulo quolibet particulari, faciles proculdubio sibi sui erint sudores mentesque magis firmæ; & in hijs (nisi fallor) studiorum erit delectatio non modica.

Quippe quum me velle narrare, tām tempora editionum Registri, Speculi Iusticiariorum, Glanvillæ, Flætæ, Nouarum Narrationum, Littletoni, aliorumque de Lege librorum modo extantium, quique condiderunt hos quorum authores in librīs ipfis non extant, quām antiquitatem Seruientium ad Legem, nonnulli rogitaruerunt: ut habeant quo quiescant, Sciant imprimis Registrum rescripta sue brevia originalia Juris municipalis comprehendens, librum de Lege esse vetustissimum; casus enim è codice & archiis de Anno 26. Edwardi tertij lib. Assis. pla. 24. euincit manifestè, brevia originalia Assise ut & alia brevia originalia in vsu fuisse ultra omnem hominum memoriam, (hoc est, quorum institutio, vel recordatione, vel lectione, vel ex scrinijs ostendi non potest) multò ante deuictam banc Regionem: que quidem hic solummodo percurro, eò quod eadem in proemio tertij mei Commentarij copiose magis adnotavi, & quoad possum iterationem minus

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minus gratam euitare conor. Quin & liber iste nominatur Registrum Cancellariæ in statuto West. 2, cap: 24. quia Cancellaria est tanquam officina Iustitiae, unde brevia originalia uniuersa emanant. Cuius de autore, vel potius de authoritate audi Bractonum Lib. 5. tract' de exceptionibus cap. fol. 413. Breue quidem, cum sit formatum ad similitudinem regulæ Iuris, quia breuiter & paucis verbis intentionem proferentis exponit & explanat, sicut regula Iuris rem quæ est breuiter enarrat &c. Sunt quadam formata sub certis casibus de cursu & de communi concilio totius regni concessa & approbata, quæ quidem nullatenus mutari poterint absque consensu & voluntate eorum. Binis igitur hijs authoritatibus connexis, concludere licet hunc esse librum tum antiquitatis tamen authoritatis maxime. Vertute autem actorum comitialiū, scilicet subsequentibus, varia alia brevia originalia in casibus recentioribus emergentia (ut in eo liquet) annexi faciō. Et de hijs antiquis Breubus dicam (quod dixit Thomas Smith eques auratus diua quinetiam Elizabetha nuper Regine ab Epistolis) Secretarios Christiani orbis uniuersos, rerum congeriem paucis significatiuis verbis exprimere, ex illis possediscere. Speculum Iustitiariorum quod attinet, maxima ex parte literis confignatum fuit, gente hac nondum subacta, ut ex illo perspicuum est: Ceterum (ut ferunt) multa adiecta fuerunt per Horne virum eruditum satis et prudenter sub regno Edw. 1. Glanilla scripsit regnante Henr. 2. ut in libro suo constat: qualem se gesit, prefatio in octauum meum librum (Historiam continens meā sententiā, Lectu dignam) plane edocet. Bractonus (ut alibi notavi) circa Henr. 3. regni finem commentatus est. Britonus opus eruditum composuit, idemque anno 5. Edw. 1. promulgavit, per mandatum Regis Edw. 1. (Iustiniani nostri) prout in 35: Henr: 6. apparet; Cuius tenor se habet sub nomine Regis,

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tanquam ab illo confectus, pro more Iustiniani Iustitio-
nū, quas sibi arrogat Iustinianus, ab alijs licet strūctæ fue-
rint. Iste Iohannes Britonus fuit Episcopus Hereforden-
sis, summā & reconditā in Lege communis scientiā, ornamento
professioni sue singulari, & sibi securitate, & solatio optimo.
Vide Stanford' Prerogatiua Regis 6. & 21. Fleta, opus
per eruditum aliquem Jurisconsultum quam optimè compo-
tum, cui in carcerem, qui Fleete dicitur, alegato, scriben-
di otium fuit plus satis, ideoque librum suum, secundum Fle-
tae denominationem, Fletam appellauit, & nomen suum sup-
presit, ut in operis sui proemio constat: Author itaque eius-
dem incognitus est; quem tamen sub Edw: 2. & Edw: 3. vi-
guisse liber eius dilucide ostendit. Vide Lib. i. cap. 10. §. Qui
ceperunt, Lib. 2. cap. 66. § Item quod nullus. De tem-
pore autem in quo primum editum fuit (quia nonnulla postea
accesserunt) dubitatur: Ceterū, in hoc perscrutando, Li-
brum istum à carcere Fleta, Fletam verò ab amniculo pre-
terlabente sic appellato, nomen sortitum fuisse reperio. Co-
dex qui inscribitur Nouæ narrationes, in 39. Hen. 6. 30.
per doctum Pristol & socios suos de Banco Iusticiarios, sub no-
mine Narrationum, memoratus & approbatus, iuxta initi-
um regni Regis Edw. 3. in lucem prodijt: Tum et non multò
post Vetus Natura breuium, Rege eodem gubernante; nam
fol 100. b. statutum de 5. Edw. 3. cap. 12. nouum statutum
nuncupatur; exinde tamen multa illi annexa sunt: De libro
hoc Anthonius Fitzherbert eques, in proemio ad tractatū
suum de Natura breuium, dicit, Et auxy pur cel intent
& purpose, fuit compose, per vn sage & discreet home,
vn liure appell Natura breuium. Et circa id tempus, Co-
dicillus de Veteribus Tenuris editus fuit. Liber Fortes-
uē de laudibus Legum Angliæ, sub Rege Hen. 6. confec-
tus fuit, multa lectu imprimis digna in se habens: idem eti-
am pro titulo & iure Regis Hen. 6. supremi sui domini ad sc̄p-
tra

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tra Angliae tenenda librum conscripsit, quem postea ex veritate conscientia retractauit; quorum ruerque apud me sunt: & in hoc laudem singularē meruisse videtur, quod illorum pars nulla fuit qui suos amassent errores, sed inuentā semel rveritate, facile succubuit. Iste Iohannes Fortescue fuit e-ques, & principalis Angliae Iusticiarins et postmodum Dominus Cancellarius Angliae constitutus fuit; & in hodiernum usque diem magni est eius posteritas. Stathomi Compendium, & Stathamo Jurisconsultissimo, regnante Hen. 6. primū editum fuit: Et Libri Aſſilarum, epitome iuxta id temporis etiam in lucem prodijt, Author vero eiusdem ignotus est. Littletoni Tenuræ, (reconditæ quidem & exquiste literatura Liber, Legis communis quādī medullas ipsas complectens) à Thoma Littletono, viro grauiſſimo pariter ac in Lege peritiſſimo, Iudice Placitorum communium (quondam e Societate interioris Templi,) compositæ fuerunt & promulgatae; cui adiumento non parūm fuit Dominus Iohannes Prisot Curie eiusdem Iusticiarius principalis, vir Iurisconsultissimus, alijque Legis Sagacissimea tempeſtate florentes. De hoc li- bro Hotomanus, Iuris civilis & canonici peritus, commenta- rio suo de verbis feudalibus, verbo feūdūm, censuram facit, sed qua charitate vel prudentia, cruditus Lector fit Index, Stephanus Pasauerinus excellenti vir ingenio &c. libellum mihi Anglicanum, Littletonum dedit, quo feudorum Anglicorum Iura expontuntur; ita in- conditè, ab turde & inconcinnè scriptum, ut facile appa- ret verum esse quod Polidorus Virgilius in Anglicana Historia scribit, Stultitiam in eo libro cum malitia & ca- lumniandi studio certare, De Hotomano & authore suo merito dicam hoc & non amplius dicam, Volentes esse legi Doctores, non intelligentes neque quæ loquuntur, ne- que de quibus affirmant: missos igitur faciamus in numerū illorum

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illorum qui vituperant quæ ignorant. Scelus siquidem & periculum manifestum est, Iuris ciuilis peritos & vel Canonistæ (satis notum loquor et iustis de causis) aut de iure municipali Angliae, quod non profitentur, scriptitare, aut in ignotos dicere calumniam. Certo certus ridiculm, & audax nimis in me foret, si (quoniam partem ego parvulam Juris Ciuitatis & Canonici, auxilio nonnullo perutili & auimento adhibito, euoluui) de illis & vel in illa statim scribere aggrederer. Illorum autem pagine, adeo manifestis refertæ sunt erroribus, ut nouorum istorum machinatorum ex charitate misereamur, & illorum libellos (dato responso) consulendo reijciamus. At si libri nostri de Lege quasi enigmatici & obscuri illis videantur sapientes illud Legibus nostris haud vicio vertent quin immo inscitie scolorum istorum qui superficiem solam Legum vix dum penitèrunt, ideoque sensum earum reconditum intelligere nesciunt. Sed in illos calamum non acuam; miseret me hominum, & discretiores esse & velint opto, professionem enim illorum in honore habeo. Littletoni Tenuras quod attinet, hoc affirmo & contrarefragantes quoescunque ratum faciam, opus esse suo genere adeò absolute perfectionis ideoque ab erroribus liberum, atque aliquod aliud mihi notum humana tractans eruditioñem. Et huiusc viri, Legis peritissimi, posteritas (cui magno fuit illo ornamento) ad hunc usque diem vigescit: quem vir professione sua maximè egregius, non immerito appellauit Iurispiritissimum &c. ad cuius tractatum de Tenuris (inquit) Legum communium studiosi, haud aliter quam Juris ciuilis studiosi ad Iustiniani institutiones confluunt.

Cambden
574.

Fitzherberti Compendium elaboratē collectum fuit & in Anno 11. Henr. 8. à Fitzherberto tunc Seruente ad Legem editum: idem aliud etiam composuit opus, cui nomen est Natura breuum, exquisitum sanè & accuratè structum & anno 26. Henr. 8. diuulgatum ab eodem tunc Domino Antho-

nio,

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nio Fitzherberto equite, Iudice Curie placitorum communium Idem non multò post, tractatum suum de Eirenarcha condidit : cui Iudices (ut ex rescriptis haufi) vitio dederunt, quòd eo afferuit Eirenarchas ex Commissione sua ad audiendum & terminandum felonias &c. potestatem habuisse, homicidium tamen ex malitia prepensa audire & determinare non potuisse, quod (inter alia) Eirenarchas per legem posse facile affirmabant. Dialogus inter sacra Theologie Doctorem & Legis communis Studiosum, anno 23. Hen. 8. conscriptus fuit ab auctore appellato S. Germin. viro sine dubio prudente & iuris tum Municipalis tum Civilis & Canonici satis perito. Liber, qui inscribitur Tractatus à Theologis & alijs Iuris patrij peritis, de potestate Cleri, & de Legibus huius regni, emissus fuit sub H. 8. post annum vicefimū sextum suscepiti regiminis, nam in eodem, actum Parliamentarium eiusdem anni memoratur : qui liber penes me est. Minores illae Commentationes de Modo tenēdi Curiam dominicalem & visum Franciplegij &c. Modus tenendi Hundredum &c. Returna brevium, Charta feodi, &c. & Ordinationes pro feodis in Scaccario, in exitu regni Hen. 8. compositae fuerunt. Liber inscriptus Curiarū distinctio, ab anno vicefimo primo Regis H. 8. collectus fuit : Statutum enim de 21. H. 8. de restitutione bonorum, super indictamento &c. fo. 117. a. recitatur. Stanfordi liber est bimembbris, unus de causis coronam attingentibus, alter, non ita grandis, de Prerogatiis Regiis : Ceterum posterior prius vulgatus fuit per Willielmum Stanford' equitem & Iusticiarum Curie placitorum communium, quondam ē societate hospitiij Graij, virum Legum municipalium consultissimum, cuius posteribodiē vigent. Perkins, commentariolum quosdam legum patriarcharum titulos tractans, scitè & literatè confectum, regnante E. 6. per Iohannem Perkins Iuridicum, à nobis Vitterbarister dictum, ē societate Templi interioris, emissum fuit.

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fuit. *Missa non faciam* Summarium illud statutorum, & in magnum Fitzherberti compendium Indicem, nec librum Intrationum, per commode & laborate (*hoc mihi credas*) collecta & edita sub regina Maria, presentim duo priora, in oblationem & auxilium non mediocre Legis studiorum, per Willielmum Rastall grauiissimum de communii banco Iudicem, et virum strenuum & summa pere industrium congesta, multa tamen extunc & statutorum Summario & libro Intrationum accesserunt: quem etiam habuit authorem liber de expositione vocabulorum Iuridicorum. Domini Brooke compendium editum fuit in anno 16. Regiae Eliz. Constructum fuit a Roberto Brooke equite, fori placitorum communium Iusticiario principali, & sui suo proprio, et in lucē prius non prodij quā author ipse obdormierat: preclara quidem lucubratio, et codicū legis repertoriū per quā utile; sed satius est petere fontes quā sectari riuulos. Comentatorium Plow. prima et item altera pars, tā literatē quā limatē politā, à seipso emissā fuerunt, prima in an. 13. reg. Eliz. secunda an. 21. eiusdem regiae opera (ut bene merentur) apud legū professores singulos imprimis magnificata. Habuerunt authorem, virum iuris spiritum quē Apprenticium vocamus) multa etate prouetū, è societate medij Templi, eximiae gravitatis, scientiae, et integritatis. Dni Dier liber, utiles simul ac compendiosas comprehendit observationes reuerendissimi illius legum patris Iac. Dier equitis, actionum communium Curiæ capitalis non ita pridē Iusticiarius, in utilitatem et meditationē suā propriam designatas; quas author ipse formā qua nunc sunt publicari nunquam cogitauit verum, quales post obitum eius inuenitae, anno 25. Regiae Elizabethæ prelo commissæ fuerunt, quarum quidem origo manu suā propriā conscripta penes me est. Collectanea denique Magistri Lambard de Eirenarcharum officio, methodice digesta, iuxta finem regni Elizabethæ regine publi-

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publica deuenerunt.

Seruientium ad legem antiquitatem quod attinet, ex libro de Iusticiariorum speculo dilucide patet lib.2. cap. des Loiers (vbi de legibus huius regni & eiusdem ministris multo ante subjugationem agitur) quod seruientes ad legem antiquis nominabantur Narratores, i. Countors seu Counteurs, quia breuis originalis materiem, & iphissimū sectae fundamentum complectitur Narratio, ex qua, quasi ex parte digniore, suam mutuati sunt demonstrationem, que reuera idem est quod in Iure Ciuli Libellus: Nec nomen istud tempore E. primi amiserunt, ut in statuto de W. 1. cap. 29. an. 3. E. I. liquet, nam ibi appellatur Seruens Narrator: & per statutū de Articulis super chartas ca. II, an. 28. E. I. Nest my a entender, que home ne poet auer counsell des Countors, & des Sages gents, pur lour donant; vbi in hoc vocabulo (Countors) seruientes ad legem includuntur, & ad hunc usque diem, cum qd Seruientis gradum quisquam vocetur, in actione aliqua reali ad septum Curiae placitorum communium narrat: Et sub hijs vocabulis (Sages gents) includuntur Jurisperiti, quos Apprenticios dicimus. Sed à tempore regis Ed. I. hucusq; ob p̄aclara sua in rempubl. p̄stita seruitia per consilia plena prudentiae & fidelitatis, Seruientes ad legem delli fuerunt; quemadmodum enim seculis retroactis, qui pacem conseruabant Seruientes pacis, vel ad pacem, vocabantur, baudaliter h̄j Seruientes legis vel ad legem, vel in legibus, &c. nominantur. Et vetusto illu tractatu de Speculo Iusticiariorum vbi supra, Countours, Seruientes in patrijs Legibus periti describuntur, populo, ad actiones suas pronunciandas & defendendas usq; ad sententia examē pro honorario suo deseruiti: quorum officia ibid p̄aclare depinguntur. Hoc magnam antiquitatem seruientium ad legem demonstrat. Inter placita de parliament' tent' apud Ashering anno 19. Edward' I, in insigni illo casu Thomae de Weylond

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lond, dicuntur Seruientes in legibus & consuetudinibus Angliae experti &c. et in singulis nostris libris de annis et terminis, à primo, de illis fit mentio; ut in 1. E. 3. 22. Serjeant le Roy &c. Et in 1. E. 3. fol. 16. de Apprenticio fit mentio: atq; ex hoc verbo (apprendre) dicitur Apprenticius, quia esse debet apprile en la ley, eamq; eius peritiam per prelectionem, in Hospitio illo Curia cuius est societate est, super statutum habitam, manifeste indicauit: & Seruienti gradu proximus est. Quin & denominatio huiusmodi antiqua admodum est, et sic testatur, Rotulo Parlamenti in crastino Epiphaniæ anno 20. E. 1. rot. 5. in dorso: Actus sic se habet, De Atturatis & Apprenticijs, Dominus Rex iniunxit Iohanni de Mettingham & socijs suis, quod ipsi per eorū discretionem, prouideant & ordinent certū numerū de quo libet Comitatu &c. Et sic vterius affirmatur ex archiis, inter cōmunia placita tenta in Hustingo London die Lunæ in festo Sancti Clementis Papæ, anno regni E. 3. post conquestum 23. viz. die Iouis proximé ante festum sancti Gregorij Papæ, anno domini 1348. Ego Iohannes Tauie armiger lego animam meam Deo &c. Item lego omnia tenementa mea cum omnibus pertinentijs quæ habeo in parte australi in parochia sancti Andreæ &c. Aliciae uxori meæ ad totum terminum vitæ suæ, Et quod post deceßum predictæ Aliciae, totum illud Hospitium in quo Apprenticij legis habitare solebant, per Executores meos, si superstites fuerint &c. vendatur, & quod de pecunia inde percepta unus Capellanus idoneus pro anima mea &c. celebrand', dummodo pecunia illa perseverauerit, inueniatur. Item lego totum illud tenementum in quo habito cum tribus shopis post deceßum ipsius Aliciae ad fabricam Ecclesiæ Sancti Andreæ. Ex hoc monumento tria coligo, prim' de antiquitate Apprenticiorum Legis, Quod ades Cancellarie in vico

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in vico Holborne, modo Hospitium Tauij ante annum 23. E. 3.
(circiter annos 264. retro lapsos) antiquitus fuerat Hospiti-
um Curiae, in quo legis Apprenticij tempus solebant impendere:
2. de antiquitate et vero harum adiū Chancellariz nomine, re-
etiis dictarum Hospitium Tauij: 3. Quod super hoc testamen-
tum, de casu in 21. R. 2. tit. Diuise Fitzh. 27. judicium fere-
batur, quod remanere tenementi prefatae Aliciae ad terminum
vitae sue legati, ad Rectorem Ecclesie de Holborne et successo-
res suos spectabat. Tunc & 39. E. 3. f. 47. b. in Quod ei defor-
ceat, Ingleby, Seruiens ad legem, qui Tenenti consulebat, ex-
ceptionem hanc intendebat, Breue istud (inquit) fundamen-
tum habet Recordum, volumus igitur cogatur Petens Re-
cordum (à quo breue hoc pendet) in certitudine deponere; et
in casu Attinctorum & Scire facias (que à Recordis pendent)
Tenens auditum recordi obtinebit: Wilby & Shipwith, hu-
iusmodi exceptionem hoc loci nunquam nouimus, ceterum, in-
ter Apprenticos in Hospitijs Curiae frequentem audiutimus.
De Apprenticijs satis.

Modus creandi Seruientes item antiquissimus; est enim per
breue, quod in registrorū vetustissimorū plerisque inuenitur, &
in hunc die inolevit, sub hac forma, Rex. &c. Will'o Herle
Salutem, Quia de aduisamento concilij nostri, ordina-
uimus vos ad statū & gradū Seruientis ad legē, in Quin-
den' sancti Mich. prox. futur', suscipiend', Vobis manda-
mus firmiter iniungentes, qd' vos ad statū & gradū pre-
dictā, ad diem illum, in forma predicta suscipiend', ordi-
netis & præparetis; & hoc sub pena mille librārum: Te-
ste meipso &c. Unde in eius honorem obseruandum est: 1. qd'
à rege, de aduisamento concilij sui inde, euocatur, 2. per breue
regis, 3. breue istud in plurali numero ad eum alegatur, voca-
bulo vobis, dignitatis argumento singulari, 4. ad statum &
gradum seruientis ad legem vocatur. Et in acto commi-
tiali de 8. Hen. 6. cap. 10. de Seruiente dicitur, cum statum
eundem in se suscipit: Et in acto parliamentario de 8. Ed-
wardi 4. cap. 2. Al creation des Serjeants del ley &c.

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Et creatio dignitatem semper intelligit. Verum interea est, quod dictum breve in Registrum excusum non inseritur, haud secus atque brevia ad promouendum aliquem in Baronem regni, vel ampliorem dignitatem, eo quod istiusmodi brevia sunt originaliter de gratia regis tantummodo; Et quae ad usus publicos in Registro imprimuntur, originaliter de iure legis. De vocationis eius celebritate, de Capitio, Pallio, Capillari, alijsque insignibus, de apparatu Epulorum lautissimo, de aureis annulis erogatis, de ministris, alijsque magnificis de more Ceremonijs, ad proposita questionem non attinentibus, vel verbum quidem dicere non statuo. Honorem eorum antiquum diuturniorem esse credo, eo quod vestes et insignia statui et gradui suis olim solita, nullà surreptâ immutatione, hodie usurpant: plerunque enim sit, antiquam cuiusque ordinis dignitatem evanescere una cum vestimenti immutatione, sit licet magis pretiosum, aulicum, et splendidum illud nouitium. In acto parlamenti de 24. Hen. 8. cap. 13. (suscepto tum statu tum gradu) multos Assessores sublimis Tribunalis in Curia summae eminentiae in Aula Westmonasteriense praedit: Sed in hoc falcem immittere nolo, cum de precedendo, lex nullum constituit remedium, et mihi res est cum lege tantum. De status huius et gradus antiquitate in veneranda rerum Antiquarum schola, plura didici: sed de hac re, hoc sat superque: Et valeant qui contabulatis mendatijs Antiquitatem superstruunt.

Ex Seruientibus hisce tanquam è seminario Iustitiae, cooptantur Iudices, nullus enim nisi Seruiens Subsidijs Regij, sive actionum communium Iudex, vel Capitalis Baro Scaccarij, constitui potest, nec in hospitiorum Seruientium ad legem unum vel alterum se conferre potest, nisi qui prius fuit Seruiens ad legem, non enim Judicium vel Iusticiariorum hospitium dicitur, sed hospitium Seruientium ad legem: Noui enim Barones Scaccarij, hos qui non fuerunt de gradu de le coise (ut loquimur) Iudicis tamen vice egerunt,

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in hospitijs Curie, quorum fuerant socij, refidisse, & ex more
Apprentiorum legis visitos fuisse. Tandem vobis fit animus
persuasum me habeo, casus illos euoluendi, quos adhuc tantum
gustasti, & Tempus est Veritatis & Iustitiae sancta adire
penetralia: valedicam igitur studioso, cui, cum lectionis in-
cremento, magis magisque in hoc studio delectatione excepto,
que aditum ad venerabilem scientiam augendam dat facilitum
(quem, ex alijs, statu iudorum meorum finem) nesci-
ens quid melius matuse ei vellem: hoc itaque Disticho & con-
filio rem conficiam,

Discendi modus est dum te nescire videbis:
Disce, sed assidue, sed ut sapias.

c ii

Deo,



D E O ,
P A T R I A E ,
T I B I .

AT my times of leisure after my publique seruices (cheerfully taking industrie mine olde acquaintance for my confort and aiming at the good of my deere countrey for my comfort) and beginning with this continuall and feruent prayer, The glorious Maiestie of the Lord our God bee vpon vs ; oh prosper thou the workes of our hands vpon vs , oh prosper thou our handy workes. I haue, by the most gracious direction and assistance of the Almighty, brought foorth and published this tenth worke to the view of the learned and beneuolent reader. This part containeth a true and iust report of certaine iudgments and resolutions giuen in his Maiesties principall courts of Iustice vpon great and mature deliberation, and in cases of as great importance and consequence as in any of my former commentaries , which I haue taken vpon me & finished (though it hath beene more the difficult to me) to auoid that the which venerable veritie doth blush at for feare , that is , That shee which is the foundation of Iustice should not be hidden & vnknowen ; *veritas abscondi erubescit, nihil enim magis metuit quam non proferri in publicum, vult se in luce collocari,* & quis illam occulat occultetue , *quam omnium oculis expositiū esse est aquissimū?* Neither is she pleased, when once she is found out & reuealed to be called into argument , & questi-

To the Reader.

question againe, as if she were not veritie indeed; and therefore the rule is, *Eatenus ratiocinandum est donec veritas inueniatur, ubi inuenta est veritas ibi figendum iudicium*: Nay sometimes truth is lost by too much altercation, *nimia altercatione veritas amittitur*. She takes small delight with vernish of words or garnish of flowers; for *simplex est sermo veritas*, πατερ τοῦ φωνησιογνωμονος for her place being between the heart and the head doth participate of them both, of the head for judgement, and of the heart for simplicitie. Now, whither it bee not necessary that the true and iust reasons and causes of these judgements and resolutions, which are not expressed in any record, for the aduancement of trueth and the preuenting of error, in matters of so great importance and consequence, should be plainly and faithfully published to all posterity, I leauue to the censure of the learned and iudicious Reader.

I haue reported in the first place (though it bee not first in time) the case of the Hospitall of King *James*, founded by *Thomas Sutton Esquire*, for that in mine opinion it doth merit to haue the precedencie for two causes, first, for that it was an Eschequer Chamber case, wher, by the verdict of the grād iury of all the Judges of England, it was for the Hospitall found *Billa vera:z*. For that the foundation of this Hospitall is *opus fine exemplo*. The imitation of things that be euill doth for the most part exceed the example, but the imitation of good things doth most commonly come farre short of the president: but this work of charity hath exceeded any foundation that euer was in the Christian world, nay the eye of Time it selfe did neuer see the like.

For, the first gift by *Sutton* of lordships, manors, lands, and tenements to continue for euer for the mainteinance hereof, doth amount to the cleere yearly value of 3500.l. or neere thereabouts, and within these

The yerely
value of the
possessions
first given.

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few yeares will be increased to about the yearly value of fife thousand pounds. *probatio charitatis exhibitio operis.* And besides all this, *Sutton* left to descend to the pl' (a man of meanè quality) the manor of Tarbacke in the County of Lan' consisting of a faire auncient house, two parkes and large demesnes plentifully stored with timber, of the yeerely value of 300'l. and 50.l. by the yeere of rent of Assise, together with the rectory of worth 100.l. *per annum* within the same countie.

To what intents & purposes the reuenues, shall be employed.

The large reuenues of this fatnous Hospitall are to be imploied principally for foure speciall intents and purposes : first for the relief of such worthy and well esteemed captaines, commanders and souldiers, as bee vnmarried, and haue aduentured their liues in the Wars for the seruice of the realme, and are fallen into pouertie and impotencie: 2. for redeeming of poore captiues, especially such are vnder the miserable thralldome of Infidels, and constantly keepe their faith and the profession of true religion: 3. for the erection of a free schoole, and maintenance of a learned scholemaster and vther for training vp of poore children in good literaturē and vertuous education, and for auoiding of idlenesse the mother of all vice and wickednesse: 4. within this Hospitall there shall be for euer maintained a graue & learned Diuine for the instruction of all within this Hospitall by preaching of Gods holy word, for the due celebration of Diuine Seruice, and the holy Sacraments, and catechising of the youth in the principles of true religion; for the accomplishment and mainetennance of which and other godly and charitable vses, the said founder hath left also a very great and large stocke of mony to his executors *Richard Sutton Esquire & John Lawe* gentleman, two faithful, constant, and industrious persons. This worke of pietie and charitie is founded iu the spacious and spacioius house called the Char-

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ter house in the Parish of S. Sepulchre in the Countie of Midd. hauing faire Orchards and Gardens, and containing 20. acres within the precinct thereof, so as a man may say of it, that it is *tanquam orbis in urbe*; a place (as it appeareth by record & history) ordained of God for qious & charitable vses. For Sir Walter Many of Hennalt (who was created by King E.3. knight of the Garter for his seruice which with singular commendation hee performed in the French wars) when the pestilence so raigned in London, that the Church-yards were not sufficiēt to bury the dead bodies, especially of the poore, purchased the place where now this famous Hospitall is erected, and caused the same to be consecrated for the buriall of poore Christians (which, whiles they liued, were the temples of the holy Ghost) and the record tel-leth you that *anno domini 1349. et anno regni R.E. 3. 23. regnante magna pestilentia consecratum fuit hoc cemiterium &c. in quo et infra septa eiusdem sepulta fuerunt mortuorum corpora plus quam quinquaginta millia.* But after the plague by the goodnes of the almighty ceased, the same Sir Walter Many in the yere of our Lord 1371. & in the 45. yeere of the raigne of K.E.3. fōnded the Chartusiā Monks there, who by corruption of speech were vulgarly called the Monks of the Chartre-house. So as the soile which of ancient time was giuen by Sir Walter Many, a knight and a souldier, for the sepulchre of poore men when they were dead, is now by Thomas Sutton, an Esquire and a souldier, conuerted and consecrated to the sustenance of the poore and impotent whiles they liue. And therefore a man may truely apply to this place the saying of the royll Prophet, *Thou Lord of thy goodness hast prepared it for the poore.* And this case was adiudged with the great applause of all that heard it, or of it, and principally for fourre causes: first, for the hononr of our Religion, that hath produced such a worke

Psalmo 68.

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a worke of pietie and charitie as neuer was in the Christian world for the first foundation : 2 for the glorie of the Kings Maiestie, to whom *ex congruo & condigno* it is dedicated and beareth his name 3. for the encrease of pietie and charitie, *ne homines deterre enter apij & bonis operibus*: and, lastly *ut obstruatur os iniqua loquentium*. And I dare affirme it for the honour of our Religion, that more of such good workes of pietie and charitie haue beeene founded within this realm, since the beginning of the raigne of our late Queene Elizabeth of euer blessed memorie, during the glorious Sunne shine of the Gospel, then in many ages before. And it hath beeene obserued, that (by the blessing of Almighty God) this kingdome of England, for pietie, profite and pleasure, viz. for this and such other workes of pietie, 2. for the crownes inheritances of honors, manors, lands, &c. and certaintie of yeerely profit, and lastly for forrests, chases, parks and other places of pleasure, hath exceeded the greatest Monarchie in the Christian world.

2. Then haue I published in *Mary Portingtons case*, for the generall good both of Prince and Countrie, the honorable funerall of fond and new-found perpetuities, a monstrous brood carued out of mere inuention and neuer knownen to the ancient sages of the Law ; I say monstrous, for that the Naturallist saith, *quod monstera generantur propter corruptionem alicuius principij*: And yet I say honorable, for that these vermin haue crept into many honorable families. At whose solemne funerall I was present and accompanied the dead to the graue of obliuion, but mourned not, for that the commonwealth reioyced, that fettered freeholds & inheritances were set at libertie, and many and manifold inconueniences to the head and all the members of the commonwealth thereby auoided. *Jennings case* vouched in *Mary Portingtons case*, and doth concerne the common assurance
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rance of the realme.

And next after commeth *Lampets case*, where per-
petuities of leases for many thousand yeeres are by con-
sequence ouerthrownen.

The *case of the Vniuersitie of Oxford* (a famous Semi-
narie of the Church and common wealth) tendeth to
the aduancement of Gods true religion, and in some
degree for the better maintenance of a learned and re-
ligious Ministerie out of both of the Vniuersities of
Cambridge and Oxford.

The *Bishop of Salisburies case*, against both the dimi-
nution of the possessions and yeerely reuenewes of the
Archbishops and Bishops of the realme, and the priu-
dice of their successors.

Whistlers case, containing diuers materiall points for
the better construction of letters patents of inheritance
in diuers points commonly happening.

The *case of the Churchwardens of the Parish of S. Sau-
ours*; wherein letters patents of leases are well expoun-
ded, for the quieting of the possessions of many of the
King's farmours, and by consequence of the inheritance
and estates of many others.

The *case of the Court of the Marshalsey*; wherein the
originall institution and iurisdiction of that Court is
cleerly manifested. And albeit the law was well knowne
before in this case both by our booke cases and records
in all succession of ages, yet as in great riuers, the cour-
ses, windings, fallings in, and outlets, are by experience
vulgarly knownen, whereas the very fountaine and head
it selfe lie many times hidden and secret, so in this very
case, the capacitie, proces, and priuiledge of this Court
was often resolued in our bookes of yeeres and termes,
and the iurisdiction commonly knownen, And yet the
true original institution and fountaine it selfe lay some-
what deepe and obscure, vntill it was wrought out by
antiquity

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antiquitie, which hath so manifested the true fense of
the auncient acts of parliament, and the reason of our
bookes, concerning the originall and true iurisdiction
of this court, as the very opposites, being by venerable
antiquitie inlightned, are by reason conuinced, and by
authoritie satisfied; and therefore they are worthie of
reprehension which contemne or neglect the studie of
antiquitie (which is euer accompayned with dignitie) as
a withered and backe-looking curiositie: *multa ignoramus que non laterent si veterum lectio fuit nobis familiaris*:
1.R.3.cap.9.
and as the Alluminor spoken of in law, giueth light
and lustre to the letter or figure to the coloured; so an-
tiquitie doth giue light with great grace and ornament,
both for the vnderstanding and meaning of the letter
of auncient acts of Parliament, and of our booke ca-
ses and authorities in law. I wish the like were done for
all his Maiesties courts of Iustice, a matter to them that
haue orderly read and well obserued our bookes, and
authorities of law, of greater labour then difficultie;
and yet would the worke greatly tend to the honour of
the law, and the preuenting of many questions, suites,
and vnecessary charges and delaies.

Leonard Loueis case is principally grounded vpon the
statutes of 32 H. 8.c.1. and 34. H. 8.c.5. of willes: which
statutes might seeme to be made *ad extorquenda iuris-*
prudentum ingenia, to many and such intricate and knot-
ted questions haue growne out of those rootes; and yet
adding this last case to the former cases reported by me
for exposition of those Statutes, to *Butler & Bakers in the*
3. part of my Reports, fo. 27. sir George Cursons case in the
6. part, fol. 75. sir Richard Pexels case in le 8. part 83. Mights
case ibidem 163. vigil Parkers ibidem. 173. &c. I am perswa-
ded, that if not all, yet the principall scruples & doubts
vpon those statutes, are for the generall quiet of the
whole realme cleared and resolued. And yet men of ad-
vised

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vised and settled iudgements will in their perfect health prouide for their wiues and children, and by sound aduise of learned counsell, settle their estates by conueyance in their life time, which may, if they will, be reuocable at their pleasure; and not to leauie it to stand wholly vpon their last will, which many times is made when they lie on their deaths-bed (and few men pinched with the messengers of death, haue a disposing memorie) sometimes in hast, and commonly by slender aduice, and is subiect to so many questions vpon concealed tenures *in Capite* and other tenures by Knights seruice (in this Eagle eide world) former conueyances , and other matters offact, as in effect they doe for want of due information and instruction *superare iurisprudentum artem*. And it is some blemish or touch to a man wel esteeemed for his wisdome and discretion all his life, to leauie a troubled estate behinde him amongst his wife , children or kindred after his death. A competent estate to wife,children,or kindred , in certaintie and quiet , is farre better then a greater accompanied with questions and troubles. But hereof I haue giuen also a light touch in the end of *Butler and Bakers case* before mentioned ; and therefore hauing giuen this admonition, I wil here passe ouer to the next case.

Doctor Leifields case; wherein the reason of law is opened , wherefore chartres and deeds pleaded, ought to bee shewed foorth in Court , and a Caueat giuen how dangerous it is in euidence to a Iury to prooue deeds and writings bywitnesses without shewing forth; for by that meanes deeds that be railed , interlined , or otherwise adulterated, or vtterly insufficient for want of legall words , or reuocable and voide against fermors and purchasers, haue by concealing and prouing the effect of them by disposition of vnlearned men , for want of good direction , passed for good and autenticall

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call, And afterwards the matter comming in question againe, and the court directing vpon examination of the case that the deed ought to be shewed, vpon sight therof the insufficiencie appeared, and so the right preuailed: which I haue knownen both in the court of common pleas, amongst others *Mich.5. regis Iacobi* betweene *Small and Blackledge*, and in the Court of Starre-chamber in the case betweene *Greene and Eyer*, and sometime in my circuit since I was called to be a Judge.

11. *Edward Seymors case*, concerning warranties, a cunning kind of learning (I assur yon) and very necessary for the purchasor: for it armeth him not onely with a sword by voucher to get the victory of recompence by recovery in value, but with a shield to defend a mans freehold and inheritance by way of rebutter, with title of the Lawe is in mine opinion excellently curious, and curiously excellent. And yet when you haue read this case, you wil concurre with me that it was more weightie then difficult.

12. *Then commeth in Beaufages case*, as well for the safetie of shirifes and their officers and ministers, as for auoiding of extortion *crimen expilacionis*, which in holy writ, in that imprecatio against Gods enemies, is called a cosoning sin, Let the extortioner consume that he hath, & let the stranger spoile his labor. Wherin you shal find the Statute of 23. H.6. cap. 10. made for auoiding of extortion, periury, & oppressing, which are for the most part linked together, very well and iustly expounded.

13. Next followeth *Denbawds case* for the iust and due granting of *Tales de Circumstantibus* at the Assises for the better expedition of trials; wherein as well the shirifes, and their ministers, as the parties, their attorneyes and followers are to bee warned, that by no practise or confederacie, directly or indirectly, they procure not partiall and affected freeholders to stand in view, or by any

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any shifft to be packed on the *Tales*, whereby trueth and iustice may be subuerted, & the necessary act of 35. H.8. c.6. finisterly abused, for that is an high offence , and to be punished by a grieuous fine, imprisonment, and other exemplary punishment.

Lofields and Chuns case, touching reseruation of rents upon leases for yeres &c. and how the same shalbe construed, necessary to be knownen of all men , because in effect it concerneth all.

Then followeth *Arthur Legats case* , against the robbing of Church and Common-wealthe , of the Crowne and of the Countrey, by colour of pestilent patents of theeuish concealements.

After that, *Pilfolds and Ceyneyes case*, concerning the true and legal manner of the assissing and enquiring of damages &c. a necessary kind of learning, for that many errors, the causes of expence and delay, haue been therin often committed.

Next commeth the case of the *Maior and Burgesse*s of Kings Linne in the County of Norff. wherein is wel discussed what shalbe deemed in law the true name of the corporation in substance, to the end that bonds , couenants, leases, grants, or conueiances be not in respect of too much nicences & curiositie therin against al honesty and iust dealing, impeached & ouerthrown. And to say the troth I find not in any of our bookeſ frō the beginning of the raigne of E. 3. vntil the raigne of E.6. that any bond, lease, grāt, or conueiance haue bin ouerthrown by iudgment, in respect of the misnaming of the corporation, but after a window was once opned, it is a wonder to consider what light hath bin taken by corporations both ſpiritual & temporal, by questions and ſuits in law, to auoide their own leases, grants, & conueiances, to the hinderance of multitudes, & vndoing of many, vnder color of misnaming themſelues, it grieueth good

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men to remember ; sed motos prestat componere fluctus.
And this case is reported for the iuerty and quiet aswell
of their fermors and others claiming from them , as of
themselues,for estates,couenants & other things made
vnto them, ut res magis valeat quam pereat.

21. Then haue you Osbornes case , wherein is at large re-
solved whete false or incongrue latine &c. shall abate,
vitiate or make voide writs,specialties,charters,deeds;
or records, and where not;

22. Read and Redmans case, concerning summons & seuer-
rance,wherin you shal find,when the death of the par-
tie feuered shal abate the writ,& when not, and in some
cases where the death of one of the plaintifys, though
hee bee not feuered, shal not abate the originall writ
&c.

23. Richard Smiths case,in what case a Quare impedit lyeth
de medietate &c.Ecclesie.

24,25,26. Then shall you reade certaine resolutions vpon the
statutes and commission of Sewers,a necessary kind of
learning to bee knowen , but more necessary (I assure
you)to be put in due execution : & that by colour ther-
of a priuate be not priuily intended,when the publique
is openly pretended. And in those cases is wel discussed
what the commissioners of Sewers may iustly and safe-
ly doe by their wisedomes and discretions.

27. And lastly Scroopes case, touching a point of reuocati-
ons, very necessary to bee knowen, for that retiocati-
ons are growne so frequent : and the resolution of this
one point may preuent many controuersies that might
haue growne out of them, and that most commonly
betweene brethren and others neere of blood and alli-
ance.

If any do meruaile,that seeing the matter of euery par-
ticular case doth rest in a narow roomth,& that my ma-
ner of reporting is summarie,relating the effect of all that
was

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was said of the one side by it selfe, & so likewise of the other, beginning euer with the objections and concluding with the resolution and judgement of the court, (which I hold to be the best order of relation) wherefore diuers of these reports are drawne into so great a length; the cause is apparant, though I allow not of it, that the questions or objections mooved at the barre, and the arguments drawne from bookees, cases, & other authorities in law be so many, and to say the troth, many questions are raised rather out of the weight of the matter then the difficultie of the case: for I neuer saw any case of great value proceed quietly without many exceptions in arrest of judgement. The ancient order of arguments by our Sericants & apprentices of law at the bar is altogether altered. 1. They neuer cited any booke case or authority in particular, as is holdē in 40.E.3. &c. but *est tenus ou agree in nr'e liures, ou est tenus ou adiudge in termes*, or such like, which order yet remaines in moots at the bar in the Inner Temple to this day. 2. Then was the citing generall, but alwayes true in the particular; & now the citing is particular, and the matter many times mistaken in generall. 3. In those daies few cases in Law were cited but very pithie & pertinent to the purpose, & those euer pinch most, & now in so long arguments with such a farrago of authorities, it cannot be but there is much refuse, which euer doth weaken or lessen the weight of the argument. This were easily holpen, if the matter (which euer lieth in a narrow roomth) were first discerned, & then that euery one that argueth at the bar would either speake to the purpose or else be short. But seeing my desire is & euer hath bin, that the counsel-learned & consequētly the parties might receiue satisfactiō for which cause all the councell that haue argued in the case to be adiudged, ought to giue diligēt attendance & attentiō on those daies whē the Judges do argue, which are euer publikely long before appointed, and prefixed

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on certain daies. I haue for that purpose(the pains being mine owne;and the matter not without some fruit) in the cases of greatest consequence made the larger report, cōprehēding the effect of all that was obiectēd & refolued; & yet he may be a good miner that findeth & followeth the maine veines, though hee discouereth not the smal & vnualluable fillets, for their peraduēture *materiā superabit opus*. This onely I will adde as a caueat to all the professors of Law, that seeing their arguments should tend for the finding out of the true iudgement of Law, for the better execution of Iustice, that therein they cōmit not manifest iniustice; for I am of opinion that he that wresteth or misapplieth any text, booke, or authortie of the Law against his proper and genuine sence, yea though it be to confirme a trueth, doth against distributive Iustice, which is to giue to euery one his owne. And let not those that heard the arguments themselves vttered *viva vox*, with the countenance and gesture of liuing men in the seate of Iustice in open court, feare that when they shal read them priuately in a dead letter, it wil want much of the former grace:for though I confessē that *habet nescio quam enerigam viva vox*, yet when they shall read the effect of all that was spoken at large at seuerall times by seuerall persons, at the bench and at the barre by either part, of many and diuers matters collected and vntited together, & reduced *ad idem*, concerning euery particular point, it will ease them of much labour, and conduce much to the settling of their iudgement, and that, if I be not deceived, not without a students delight.

And for that I am intreated to shew as well the times when the Register, the *Mirror of Iustices*, *Glanvill*, *Britton*, *Fleta*, the *Tales or Nouae narrationes*, *Old Natura breuum*, *Littleton* and other books of the lawes now extant were published, and where the authors themselves appeare not in those bookes, who were the authors of
same

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same, as also the antiquitie of Serjeants at Law: for their satisfaction they shall vnderstand, that first the *Register*, which conteyneth the originall writtes of the common Law, is the ancientest booke of the Law; for the booke-case and record of 26.E.3.lib.Aff.pl.24. proueth directly that original writs of Affise and other original writs had beeene time out of minde of man (that is, the beginning whereof cannot bee knownen either by remembrance, reading, or record) long before the Conquest, whereof I giue here but a light touch, for that I haue cited the same more at large in the preface to the 3. part of my *Commentaries*, and I auoide as much as I can vnpleasing iterations: and this booke is called *Registrum Cancelleriae* in the statute of W. 2. cap. 24. because that the Chancery is *tanquam officina Iusticie*, all original writs issuing out of that court: Now for the authority thereof, *Bracon lib.5. tract' de Exceptionibus cap. 17. fol. 413.* saith thus, *Breue quidem cum sit formatum ad similitudinem regulae iuris, quia breuitas et paucis verbis intentionem proferentis exponit et explanat, sicut regula iuris rem quae est, breuitate enarrat &c.* Sunt quedam formata sub certis casibus de cursu & de communi concilio totius regni concessa & approbata, que quidem nullatenus mutari poterint absque consensu & voluntate eorum. Now ioining both those authorities together, a man may safely conclude, that this booke is most auncient and of greatest authoritie. I confesse that, by force of acts of Parliament in succeeding ages, diuers other writs original in cases newly happening are (as appeareth in the same) added thereunto. And of these auncient writs, I wil say (as sir Thomas Smith a secretarie of state said) that all the Secretaries in Christendome may learne of them to expresse much matter in few and significant words.

For the *Mirror of Justices speculum Iusticiar'*, the most of it was written long before the conquest, as by the

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Same appeareth, and yet many things added thereunto by Horne a learned and discreet man) as it is supposed) in the raigne of E. 1.

Concerning *Glanuile*, he wrote in the raigne of H. 2: as appeareth by this booke; and what he was it appeareth in my preface to my 8. booke, a historie in my opinion worthy the reading. And about the same time, was the treatise called the old *Tenures* made.

Bracton, as elsewhere I have noted, wrote about the end of the reigne of H. 3.

Britton composed a learned worke, and published the same in 5. E. 1: as appeareth in 35. H. 6. by the commandement of E. 1. (our *Justinian*) the tenor whereof runneth in the Kings name, as if it had bin written by him, answerable to *Justinian's Institutes*, which *Justinian* assument to himselfe, although it were composed by others.

This *John Britton* was Bishop of Hereford, and of great and profound iudgement in the common Lawes, an excellent ornament to his profession, and a safetie & a solace to himselfe, *vide Stamford. Pr. R. 6. & 21. Fleta* is a work wel written by some learned Lawyer, who being committed to the prison of the Fleet, had leasure to compile it there; and therefore stiled his booke by the name of the Fleet *Fleta*, and concealed his owne name, as in the preface to his worke appeareth; The author thereof is vnownen, but it appeareth in his booke that he liued in the raignes of king E. 2. and E. 3. *vide lib. 1. cap. 20. §. Qui ceperunt, lib. cap. 66. §. Item quod nullus.* But of the certaine time when it was first published (for peraduenture it had additions afterward) there is some question made: But in seeking after this, I find that this booke tooke the name of the prison of Fleet, & that the Fleet tooke the name of the riuer running by it called the Fleet.

The booke entituled *Noue narrationes*, vouched
and

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and allowed in 39. Hen. 6. 30. by learned *Priſot* and his companions Iuſtices of the court of cōmon pleas, by the name of the *Tales*, was published about the beginning of the raigne of K. Ed. 3. And *Old Natura Breuum* afterwards in the raigne of the same king, for f. 100. b. the ſtatute of 5. E. 3. c. 12. is called *le nouel ſtatut*: but ſince, additions haue bin made thereunto. Of this booke ſir *Anthony Fitzherb.* in his proeme to his *Natura breuum* ſaith as followeth, *Et auxy pur cel intent et purpose, fuit compoſe per vnsage et diſcreet home vn liure appelle Natura breuum.*

Forteſcue de laudibus legū Anglia; this booke was written in the raigne of king H. 6. in commendation of the lawes of England, containing withall much excellent matter worthie the reading: he wrote also a booke in defence of the title of king H. 6. his ſoueraigne lord and master, to the crowne of England; but after out of truth and conſcience retracted the ſame, both which I haue: wherein he deferued singular commendation, in that he was not amongſt the number of thoſe qui ſuos amaffent errores, but yeelded to truth when he found it. This ſir *John Forteſcue* was lord chiefe Iuſtice of England, and afterwards lord Chancellor of England, & his poſterity remaine in great and good account to this day.

Stathoms Abridgement, firſt published in the raigne of king H. 6. by *Stathom* a learned Lawyer of that time: & the *Abridg.* of the booke of the *Aſſiſes*, published also about the ſame time, but the author thereof is vñknowen.

Littletonſ tenures a booke of ſound and exquifit learning, cōprehending muſh of the marrow of the cōmon law, written & published by *Thomas Littleton* a graue & learned Judge of the court of common pleas, ſometimes of the Inner Temple, wherein he had great furtherance by ſir *John Priſot* lord chiefe Iuſtice of the court of common pleas, a famous and expert Lawyer, and other the ſages of the Law who flouriſhed in thoſe dayes.

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Of this booke *Hotoman* a Ciuilian and Canonist in his *Commentarie de verbis feudalibus, verbo feudum*, giueth his censure, with what charitie or discretion iudge learned Reader: Stephanus Pasauerinus excellenti *vir ingenio* &c. libellum mihi *Anglicanum*, Littletonū dedit, quo *feudorum Anglicorum iura exponuntur*, ita inconditē, absurdē & inconcinnē scriptū, ut facile apparet *verum esse quod Polidorus Virgilius in Anglicana historia scribit, stultitiam in eo libro cum malitia & calumniandi studio certare*. Of *Hotoman* and his Authour I may iustly say, and will say no more, *volentes esse legis doctores, non intelligentes neque qua loquuntur neque de quibus affirmant*, and therefore let vs leauue them among the number of those *qui vituperant que ignorant*. It is a desperate and dangerous matter for Ciuilians and Canonists (I speake what I know and not without iust cause) to write either of the common Lawes of England which they professe not, or against them which they know not. Sure I am , it were a ridiculous attempt and enterprise in me (that because I confess I haue read some little part of the ciuill and canon lawes , and that with some good assistance and help) by and by to write either of them or against them. But their pages are so full of palpable errors and grosse mistakings, as these new Authors are out of our charitie pittied, and their bookes out of our iudgement cast away vnanswered. Alas, our books of Law seeme to the to be darke and obscure ; but no wise man will impute it to the Lawes, but to their ignorance, who by their sole and superficiall reading of them cannot vnderstand the depth of them. I will not sharpen the nebbe of my pen against them , for that I pittie the persons, and wish they had more discretion for that I honour their profession. And for Littletons tenures, I affirme and will maintaine it against all opposites whatsoeuer, that it is a worke of as absolute perfection in his kind , and as free from error,

To the Reader.

ror, as any booke that I haue knownen to bee written of any humane learning. And the posteritie of this Sage of the law(vnto whom he is a great ornament)doth florish vnto this day : of whom a man of great excellencie in his profession hath iustly saide, that hee was a famous Lawyer &c. to whose treatise of Tenures saith hee, the Students of the Common Lawes are no lesse beholding than the Ciuilans to *Iustinians* institutes.

Fitzherberts abridgement was painfully and elaborately collected and published in the eleuenth yere of king H.8. by *Fitzherbert* then Serient at law: and he wrot also another booke called his *Natura brevium*, an exact worke exquisitely penned, and published in the sixe and twentieth yeere of Hen.8. when hee was sir *Anthony Fitzherbert* knight, one of the Judges of the Court of common pleas: about the same time he wrot his treatise of Iustices of the Peace; wherewith the Judges (as I haue seene it reported) found fault, for that hee therein affirmed that Iustices of Peace hauing by their Commission authortie to heare & determine felonies &c. could not heare and determine murder, which (amongst others) they cleerely ouerruled that Iustices of Peace lawfully might doe.

Doctor and Student, a booke written in 23. H.8. Dialogue-wise between a Doctor of Diuinity & a Student of the Common law, the authors name was *S. Germin*, a discreet man & wel read, I assure you, both in the common law, and in the ciuill and canon lawes also.

A booke intituled a treatise made by Diuines and other learned in the Lawes of the Realme, concerning the power of the Clergie, and the Lawes of the Realme, published in time of king H.8. and after the sixe and twentieth yeere of his raigne; for therein the A^t of Parliament made in that yeere is mentioned, which booke I haue.

The small treatises concerning the manner of keeping
court

To the Reader.

court Baron, and Leete &c. Modus tenendi hundredum &c.
Returna brevium, Charta feodi &c. and Ordinances for fees
in the Exchequer were all published in the end of the
raigne of King H.8.

The booke called the *Diuersitie of Courts*, was compi-
led after the 21. yere of H.8. for the statute of 21. H.8. for
restitution of goods vpon indictment &c. is recited fol.

117.a.

Stamford: this booke containeth two parts, one of the
pleas of the crowne; the other, of a lesser volume, of
the prerogatiue of the king; but the latter was first pub-
lished by sir Willia Stamford knight, sometimes of Graies
Inne, a man excellently learned in the common Lawes;
whose posterity prosper at this day. *Parkins*, a little trea-
tise of certaine titles of the common lawes, wittily and
learnedly composed, & published in the raigne of king
E.6. by John Parkins an Vtterbarister of the Inner Tem-
ple.

I cannot pretermitt the abridgement of the Statutes,
and the table to *Fitzherberts* great abridgement, and the
booke of Entries, profitably & painfullly (I assured you)
gathered and published in the raigne of the late queene
Mary, but specially the first two, tending very much to
the ease and furtherance of the professors of the Law,
collected by Willia Rastall a reuerend Iudge of the court
of common pleas, and of great industrie; many things be-
ing since added both to his abridgement of statutes and
to the Booke of Entries, who originally was also the
author of the book called the *Termes of the Law*. The Lo.
Brookes abridgement, first published in anno 16. reg *Eliz*.
This was gathered by sir Robert Brooke Knight, chiefe
Iustice of the Court of common pleas, for this priuate,
and was published long after his decease, a worthie and
painfull worke, and an excellent repertorie or table for
the yeare bookees of the Law: sed satius est petere fontes
quam

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quam sectari riulos.

Plowdens Commentaries, consisting of two parts, both of them learnedly and curiously polished, & published by himselfe, the one in anno 13. reg. Eliz. and the other in the 21. yeere of the same queene, workes (as they well deserue) with all the professors of the Law, of high account. The authour was an auncient Apprentice of the law of the Middle Temple, of great gruitie, knowledge, and integritie.

The Lord *Diers booke*, containing the fruitfull and summary colle&iōs of that reuerend father of the Law sir *James Dier* knight, late chife Iustice of the court of common pleas, for his priuat vse & remembrance, and neuer intended by him in this forme to bee made publicque, but were as he left them imprinted after his decease in anno 25. reg. Eli. the very originall wheroft, written with his owne hand, I haue. Lastly master *Lambards* collection of the office of Iustices of the Peace, methodically written, was published towards the end of the raigne of queene *Elizabeth*.

Concerning the antiquity of Serieants at law, it is euident by the booke of the *Mirror of Iustices lib. 2. cap. des Loiers*, which treateth of the Lawes of this Realme and the Ministers thereof long before the Conquest, that Serieants at law were of anciēt times called *Narratores*, *Countors*, or *Counteors*, because the count or declaration comprehended the substance of the originall writ and the very foundation of the suite, of which part, as of the worthiest they tooke their denomination, and is all one in effect, with that which in the cjuill law is called *Libellus*: and they lost not that name in the raigne of King E 1. as it appeareth by the Statute of W. 1. c. 29. an. 3. E. 1. for there he is called *Serieant Countor, Seruiens Narrator*: and by the statut of *Articuli super Chartas ca. 11. anno 28. E. 1.* Nest my a intender que home ne poit auer counsel des countors

et

To the Reader.

et des sages gentz pur leur donant; where, vnder this word *Counctors, Serieants at Law* are included; and vntill this day, whē any proceedes *Serieant*, he doth count in some real action at the barre of the court of Common pleas; & vnder these words (*sages gentz*) are included apprentices at law: But since the reigne of E. I. they haue alwaies bin called *seruientes ad legē* for their good seruice to the cōmon-wealthe by their sound aduise in law; and as in anciet time, they that preserued & kept the peace were called *seruientes pacis* or *ad pacem*, so these men are called *seruientes legis* or *ad legem* or *in legibus &c.* And in that ancient treatise of the *Mirror of Justices vbi supra*. *Counteurs* are described to be *Serieants* skilfull in law of the realme, which serue the common people to prouounce and defend their actions in iudgement for their fee, whose duty is there excellently described. This proueth the great antiquitie of the *Serieāts* at law. *Inter placita de parliamēt' tent' apud Aſhering' a. 19. E. I.* in that great case of *Thomas de Weylond* it is said, *seruientes in legibus & consuetudinibus Anglia experti &c.* and in all our bookeſ of yeareſ and termes from the beginning there is mention made of them; as in *1. E. 3. 22. Seriant le Roy &c.* & in *1. E. 3. fo. 16*: there is mention made of an apprentice; and he is called an apprentice of the law of this word (*ap-prender*) for that he ought to be *apprise in la ley*, and hath manifested the fame by open reading vpō ſome ſtatute in that Inne of court whereof he is fellow, and is next in degree vnder a *Serieant*. And this appellation is very ancient, & ſo is proued *rot' parlamenti in cr'o Epiphan'an:* *20. E: 1. rot' 5. in dorſo*, the aſt ſaith, *De Attornatis et Appre-ticijs dominus rex iniunxit Iohanni de Mettingham et socijs suis, quod iphi per eorum discretionem prouideant & ordinent certum numerum de quolibet comitatu &c.* And ſo is farther proued by a Record *inter communia placita tent' in Hustin-go London die Luna in feſto sancti Clementis Papa anno reg:*

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E.3. post Conquestum 23. viz. Die Iouis proxime ante festum
Iohanni Gregorij Pape anno domini 1348. Ego Iohannes Tawie
armiger lego animam meam Deo &c. Item lego omnia tene-
menta mea cum omnibus pertinentijs que habeo in parte Au-
strali in parochia sancti Andreas &c. Alicia uxori meae ad to-
tum terminum vite sue, Et quod post deceßum predictæ Ali-
cie totum illud Hospitium, in quo Apprenticij legis habitare
solebant, per executores meos si superstices fuerint &c. ven-
datur, et quod de pecunia inde percepta unus Capellanus
idoneus pro anima mea &c. celebrand', dummodo pecunia illa
perseuerauerit, inueniatur. Item lego totum illud tenemen-
tum in quo inhabito cum tribus sibopis post deceßum ipsius Ali-
cie ad fabricam Ecclesie sancti Andreas. Out of this Re-
cord I obserue three things, first, for the antiquitie of
Apprentices of the Law, That the House of Chancerie in
Holborne now called Tawies Inne, had beene of aunc-
ient time; before the three and twentieth yeere of E.3.
(which is about two hundred sixtie & foure yeres past)
a house of court, wherein the Apprentices of the Lawe
were wont to inhabite: 2. for the antiquitie and true
name of that house of Chancerie, rightly called Tawies
Inne 3. That vpon this Will the case in 21. R. 2. tit. De-
uise Fitz. 27. was adjudged, That the remainder of the
house devised to the said Alice for life belonged to the
Parson of the Church of Holborne and his successors.
And in 39.E.3. fol. 47.b. in a Quodei deforceat, Ingleby Ser-
jeant, of Counsell with the Tenant, tooke this excepti-
on; This writ (saith hee) is founded vpon a Record
precedent, and therefore wee pray, that the demaun-
dant may put the record (whereupon this writ depen-
deth) in certaine, and in case of Attaint and Scire facias
(which depend vpon records) the Tenaunt shall haue
Oyer of the Record: Wilby and Skipwith, This was ne-

uer

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uer any exception in this place, but wee haue heard it oftentimes amongst the Apprentices in houses of court. And concerniug Apprentices of law thus much shall suffice.

The manner of the creation of Serieants is also most auncient; for it is by writ, which is commonly found in very auncient Registers, and continued to this day, in this forme, *Rex &c. Willielmo Herle Salutem: quia de aduisamento consilij nostri ordinauimus vos ad statum et gradum seruientis ad legem, in quindena sancti Michaelis proxim' futur' suscipiend', vobis mandamus firmiter iniungentes, quod vos ad statum et gradum predictum ad diem illum in forma predicta suscipiend' ordinetis & præparetis: & hoc sub pena mille librarum. Teste meipso &c.* wherein for the dignitie of him, it is to bee obserued, 1. that hee is called by the King, by aduice of his councel in that behalfe, 2. by the Kings writ. 3. the writ is directed to him in the plurall number, *vobis*, a speciall marke of dignitie, 4. that hee is called *ad statum et gradum seruientis ad legem*: And in the act of Parliament of 8. H. 6. cap. 10. of the Serieant it is said, *when hee taketh the same state upon him*: And in the Act of Parliament of 8. Ed. 4. cap. 2. *al creation des Serieants del ley &c.* and creation is euer applied to dignitie. But it is true that the said writ is not put into the printed Register, no more then writs to call any to be a Baron of the realme or of higher dignitie, for that those writs originally are onely *de gratia Regis*; and such as are published in the printed Register are originally *de iure legis*. Of the solemnite of his call, *viz.* his hood, robes, coife, and other significant ornaments, of the great and sumptuous feast they make, of the rings of gold they giue, of their attendants, and other great and honorable ceremonies,

I pur-

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I purpose not at this time (being not pertinent to the question I haue in hand) to write any thing at all.

Their auncient reputation is (I assure my selfe) the better continued, because they without the least alteration continue the auncient habites and ornaments belonging to their state and degree; for most commonly the auncient reverence of any profession vanishest away with change of the auncient habite, albeit the newer be more costly, courtly, and curious. And in the Act of Parliament of 24.H.8.cap.13. he (hauing both *statum & gradum*) hath the precedency of diuers that sit on the high Bench in a court of great eminēcie in Westminster Hall: but seeing there is no remedy giuen by Law for precedency I (dealing onely with masters in Law) meane not to meddle with it: And albeit I haue learned more of the antiquitie of this state and degree in the Schoole of venerable antiquitie, yet hereof thus much for this time shal suffice, *& valeant qui contabulatis mendacijs antiquitatēm superstruunt.* Of these seriants, as of the Seminarie of Justice, are chosen Judges; for none can be a Judge, either of the Court of Kings Bench, or of the common pleas, or chiche Baron of the Exchequer, vnles he be a Serieant; neither can he be of either of the Serieants Innes, vnlesse he hath bin a Serieant at law, for it is not called Judges or Iustices Inne but Serieants Inne for I haue knownen Barons of the Exchequer (that were not of the coise, and yet had iudicial places and voices) remaine in the houes of court whereof they were fellowes, and wore the habi^t of Apprentices of the Law.

But I perswade my selfe you desire to read the cases whereof I haue given you, a taste, *& tēpus est veritatis et Justiciae sancta adire penetratia:* & therfore here will take my leaue of the good student, to whom I wish with his increase

To the Reader.

increase of reading more and more a delight in this studie, an excellent meane to attaine vnto augmentation of venerable knowledge (which is one of the ends of my labours) not knowing what better thing to desire for him, and conclude with this distichon and direction.

*Discendi modus est dum te nescire videbas :
Disce, sed assidue, Disce, sed rur sapias.*

Ter-



Roper. **Termino sancti Mich. Anno
regni Domini Iacobi nunc Regis Angliae
decimo, Rotulo 574.**

Le case de Suttons Hospitall.

MEmorand qđ alias, scilicet termino sancti Trin' *Midd. ff.*
vltim. p̄c̄rit corā domino rege apud Westm.
ven' Simō Baxter gen' p Georgium Cupple-
dick attournat suū, & protulit hic in cur' dict'
domini reg' tunc ibid existen' quandā billam
suā versus Richard Sutton ar' & Iohē Lawe
gen' in custod' Marr' &c. de placito transgr' Et
sunt pleg' de prof. scilicet Iohēs Doo & Richard' Roo: Quæ qui-
dem billa sequiter in hæc verba. *ff. Midd' ff.* Simon Baxter gener'
queritur de Rich. Sutton & Iohē Lawe in custod' Marr' Maresc'
dom. regis corā ipso rege exist', de eo qđ' ipsi tricesimo die Maij
anno regni domini Iacobi nunc regis Angliae decimo vi & armis
&c Cl'm & domū ipsius Simonis, viz. vnum capitale mesuag' cum
ptin' voc' **The late dissolved Charterhouse besides Smith-**
field, apud poch. sc'i sepulchri in com' p̄d freger' & intrauer', Et
alia enormia ei intulerunt, cōtra pacē dict' dn'i regis nunc ad dāp-
num ipsius Simonis quadragint' librar' et inde p̄duc' sectam &c.

Et modo hic ad hunc diem, scilicet diem Veneris proxim' post
Octab' sancti Mich isto eo d' termino, vsq; quē diē p̄d' Richar.
& Iohēs habuer' licentiam ad billam p̄d dict' interloquend' & tūc
ad respond' &c. cor' dn'o r̄ge apud Westm. ven' tā p̄d dict'. Simō
Baxter per attourn' suum p̄d dict', quam p̄d dict'. Richard. & Iohēs per Thomā Heyward attorn' suum.

Et perdict' Richardus & Iohannes ven' & defend' vim & iniuriā

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quando &c. Et dicūt quod ipsi non sunt inde culpabil', & de hoc pon' se super patriā, Et prædictus Simon Baxter similiter &c. Ideo venit inde Iur' coram domino Rege apud Westmonasterium die Sabbati proxim. post Octabas sancti Hillarij, Et qui nec &c. Ad recogn' &c. quia tam &c. Idem dies dat' est partibus prædictis ibidem &c.

¶ De quo die Iur' predict' inter partes predictas de placito predicto per Iurat' ponit' fuit inde inter eos in respectū coram domino rege apud Westmonasteriū usque diē Lune proxim' post Crastinū Purificationis beatae Mariæ ex tunc proxim' sequen' pro defētu Iur' &c. Ad quem diem, coram domino rege apud Westmonasterium, ven' tam prædict Simon Baxter. quam prædicti Richardus Sutton & Iohannes Lawe per pernatos suos predictos, Et Iur' Iur'e predict' exact. similiter vener' Qui ad veritatē de premissis dicend' electi, tria' & iurat', dicunt super sacramentum suū, quod diu ante predictum tempus quo supponit' transgress. predictam superiorius heri, Quidam Thomas Sutton armiger seisit' de & in omnibus illis manerijs & dominijs de Southminster, Norton, little Hallingbury alias Hallingury Bouchers, & Much Stābridge in comitatu Essex, cum omnibus suis iuribus, membris, & pertinentijs quibuscunque, Ac etiam de & in omnibus illis manerijs & dominijs de Bustingthorpe alias Bustlingthorpe & Dunnesby in comitatu Lincoln' cum suis iuribus, membris, & pertinentijs quibuscunque, Ac de & in omnibus illis manerijs de Salthorpe alias Saltrop alias Halthorpe, Chilton, & Blackgroue in comit' Wiltes cum suis iuribus, membris, & pertinentijs, Ac de in omnibus illis terris & pasturis vocat' Blackgroue continen' per estimationē ducent' acras pasturæ cū pertinentijs in Blackgroue & Wroughton in comitatu Wilts, Ac de & in omnibus illis manerijs de Mihenden alias Missenden aliter vocat' maner' de Misundē in parochijs de Wroughton, Lydeyard, & Tregose in dicto comitat' Wiltes, cum omnibus suis iuribus, membris, & pertinentijs, Ac deto- to illo manerio de Elcombe & parke vocat' Elcombe parke cum pertinentijs in dicto comitatu Wiltes, Ac de & in toto illo manerio de Wattl escote alias Wigglescote alias Wiggelscete cum pertinentijs in dicto comitatu Wiltes, Ac etiam de toto illo manerio de Wescote alias Wescote cum pertinentijs in dicto comitatu Wiltes, Ac etiam de & in omnibus illis terris & pasturis, continen' per estimationem centum acras terra & sexagint' acras pa- storæ cum pertinentijs, in Wigglescote & Wroughton in dicto comitatu Wiltes, Ac de & in toto illo manerio de Vffcot cum pertin' in dicto comitatu Wiltes, Ac etiam de omnibus illis duo- bus

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bus mesuagijs, & mille acristerræ, duobus mille acris pasture, tressent' acris pascuæ, & tressent' acris boscij cum pertinentijs in Broadehinton in dicto comitatu Wiltes, Acetiam de & in omnibus illis manerijs & dominis de Campes alias Campes Castle aliter vocat' Castle Campes cum pertinentijs, scituar', iacen', existen', & extenden' in Comitatu Cantabrig' & Essex. vel alter' eorum vel alibi in regno Angliae, Ac etiam de & in toto illo manerio de Balsham in comitatu Cantabrig' cum omnibus & singulis iuribus, membris, & pertinentijs quibuscunque, Ac etiam de & in omnibus illis mesuagijs & terris, scituar' & existen' in parochijs de Hackney & Tottenham in comitatu Middlesex cum suis iuribus, membris, & pertinentijs quibuscunque, Quod quidem mesuagium nuper perquisitum fuit de Willielmo Bower milite, & dict' terr' in Tottenham nunc sunt vel nuper fuer' in tenura siue occupatione Willielmi Benninge Yeoman, Ac de & in omnibus & singulis manerijs, dominijs, mesuagijs, terris, tenementis, reversionibus, seruitijs, pascuis, pasturis, boscis, aduocationibus, patronagijs, ecclesiarum, & hereditament' predicti Thome Sutton quibuscunque scituar', iacen', vel existen' in dictis comitatibus Essex, Lincoln, Wiltes, Cantabrig', & Middlesex, siue alter' eorum, cum omnibus & singulis suis iuribus, membris, & pertinentijs quibuscunque in dominico suo ut de feodo: Et ijdem Iurat' vterius dicunt super sacramentum suum predictam, quod predicto Thoma Sutton sic inde scisit' existen', ante predictum tempus quo &c. Scilicet ad quart' Session' parliamenti incepit' & tent' per prorogationem apud Westmonasterium in comitatu Middlesex noho die Februario anno regni domini nostri Iacobi dei gratia Angliae, Francie & Hibernie Regis fidei defensoris &c. septimo, & Scotie quadragesimo tertio, & ibidem continuat' usque vice summum quartum diem Julij tunc proxim. sequen' & tunc prorogat' usque decimum sextu dié Octobris tunc proxim. sequen'. inter alia inactit' & stabilit' fuit authoritate eiusdem parliamenti, prout sequitur in hec verba.

*An Act to conforme and enable the erection and establishment of
an Hospital, a free Grammar Schoole, and sundry other godly
and charitable acts and uses, done and intended to bee done
and performed by Thomas Sutton Esquire.*

Le case de Suttons Hospital.

Humbly beseecheth your Majestie, your loyall & dutifull
subject Thomas Sutton of Walsham in the County of Ca-
bridge Esquire, That it may please your most excellent ma-
iestie, and the lords spirituall and tempozall, and the Com-
mons in this present Parliament assembled, to enact, ordain,
and establish, And be it enacted, ordained, and established
by the authozitic aforesaid, That in the towne of Halling-
bury otherwise called Hallinbury Bouchers in the coun-
trie of Essex, there may be builded and erected (at the costs
and charges of your suppliant) one meet fit and conuenient
house, buildings, and roomthes for the abiding and dwel-
ling of such number of pooze people, men and children, as
your suppliant shall name, limit and appoint to bee lodged,
harboured, abide, and be relieved there, And for the abiding,
dwelling, & necessarie use of one Schoolemaster & Usher to
instruct the said children in reading, writing, and Latine
and Greeke Grammer, and of one Divine and godly Prea-
cher to instruct and teach all the rest of the same house in
the knowledg of God and his word, And of one Maister
to gouerne all these persones of, in, or belonging vnto the
same house, And that the same shall and may bee called
and named the Hospital of King James, founded in Hal-
lingbury in the County of Essex at the Humble petition and
at the onely costs and charges of Thomas Sutton Esquire,
And that the right reverend Father in God Richard now
Archbishop of Canterbury, and his successoress Archbishops
there, Thomas lord Ellesmeere lord Chancelloz of England,
and such as after him shal succeed to be lord Chancelloz or
lord keepers of the great seale of England, for and during
the time they shall so continue or be in the same office, Robert
Earle of Salisbury Lord high Treasourer of England,
and such as after him shall succeede to bee Lord Treasou-
ers of England, for and during the time they shall con-
tinue or be in the same office, The Reverend Father in
God Launcelot, Bishop of Ely and his Successoress Bishops
there, Richard Bishop of Rochester and Deane of the
Cathedrall Church of Westminster and his Successoress
of and in the same Deancy of Westminster, Sir Thomas
Foster Knight one of the Justices of your Majesties
court of common pleas vsually holden at Westminster, Sir
Henry Hobart Knight, your Majesties Attorney general,

John

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John Ouerall Doctor of Divinitie, Deane of the cathedral church of Saint Paul in London and his successors Deans there, Henry Thursby Esquire one of the Maisters of your Majesties court of Chancerie, Thomas Fortescue, Thomas Paget, Geffery Nightingale and Richard Sutton Esquires, John Lawe and Thomas Browne gentlemen, and such other as shall be from time to time for ever hereafter chosen & nominated in and to the places and steads of such of them as shall decease by your suppliant during his life, And after his decease by the most part of them which then shall be governours of the said Hospital, to be and succeed in and to the place and places of him and them deceasing, shall and may be the governours of the said Hospital and of the members, goods, lands, revenues and hereditaments of the same at all times hereafter for ever, And that the same Governours and Hospital shall for ever hereafter stand and be incorporated, established, and founded in name and in deed a body politike and corporat, to have continuance for ever, by the name of the governours of the Hospital of King James, founded in Hallingbury in the countie of Essex, at the humble petition and at the only costs and charges of Thomas Sutton esquire, and that they the said governours may have a perpetuall succession, and that by that name they & their successors may for ever hereafter haue, hold, & enjoy the manors, lordships, mesuages, lands, tenements and hereditaments hereafter mentioned, without any licence or pardon for any alienation of the or any of them, & without any licence of or for mortmaine, or any other law or statute to the contrarie notwithstanding, That is to say, your suppliants manors and lordships of Southminster, Norton, little Hallingbury alias Hallingbury Bouchers, & Much Stambidge in the countie of Essex, with al their & every of their rigthes, members, & appurtenances whatsoeuer, And also all those your suppliants manors and lordships of Buslinghorpe & Dunnesby in the County of Lincolne with their & either of their rights, members, & appurtenances whatsoeuer, and also all those your suppliants manors of Salthope als Saltrop, Chilton, & Blackgroue with their and every of their rigthes, members and appurtenances in the said County of Wilts, And also all those your suppliants lands and pasture grounds called Blackgroue, contayning by estimation

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two hundred acres of pasture, with the appurtenances in Blackgroue and wroughton in the said countie of Wiltes, And also all that your suppliants manor of Mihenden, otherwise called the manor of Mihunden in the parishes of wroughton, Lydgerd and Tregoe in the said countie of Wiltes, And all that your suppliants manor of Elcombe, and the parke called Elcombe parke in the said Countie of Wiltes, And all that your suppliants manor of Wattle-scote, otherwise called Wiggle-scote, otherwise called Wiglescete, otherwise called Wickel-scete, in the countie of Wiltes, And all that your suppliants manor of Westcote, otherwise called Westcete with the appurtenances in the said Countie of Wiltes, And also all those your suppliants landes and pastures, containing by estimation one hundred acres of land, and threescore acres of pasture in Wiggle-scote and wroughton in the said countie of Wiltes, And also all that your suppliants manor of Westcote with the appurtenances in the said countie of Wiltes, And all those your suppliants two mesuages and one thousand acres of land, two thousand acres of pasture, three hundred acres of meadowe, and three hundred acres of wood with the appurtenances in Brodehinton in the said countie of Wiltes, And also all those your suppliants manors and lordships of Campes, otherwise called Compes, otherwise called Campes castle, otherwise called Castle Campes, situate, lying, being & extending in the counties of Cambridge and Essex, or in either of them, or elsewhere within the realm of England, And also all that your suppliants manor of Balsham in the countie of Cambridge with all and singular the rights, members and appurtenances thereof whatsoever, And also all that your suppliants mesuage and lands situate & being in the parishes of Hackney and Tottenham in the county of Middle, or in either of them with their & either of their rights, members and appurtenances whatsoever, which said mesuage was lately purchased of Sir William Bowyer knight, & the lands in Tottenham now or late in the tenure or occupation of William Benning, yeoman, & also all & singuler the manors, lordships, mesuages, lands, tenements, reuections, services, meadowes, pastures, woods, aduowsons, patronages of Churches, & hereditaments of your suppliant whatsoever situate lying or being within

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within the said Countie of Essex, Lincolne, Wiltes, Cambridge, and Middlesex, or any of them, with all and every their rights, members, and appurtenances whatsoever: And also, all your suppliants Letters Patents, Indentures, Deeds, evidences, bonds and writings concerning the premises, or any of them. And all such conditions, warranties, bouchers, actions, suits, entries, benefices, and demands as shall or may be had by any person or persons upon or by reason of them or any of them, except those your suppliants manors or lordships of Littlebury & Hadstocke in the said countie of Essex: And except all your suppliants lands, tenements and hereditaments in Littlebury & Hadstocke aforesaid, or in either of them. And that the saide governours and their Successors by the same name shal and may haue power, abilitie, and capacite, to demise, lease, and grant their possessions and hereditaments, and every of them, And to take, acquire, and purchase, And to sue and bee sued, And to doe, performe, and execute all and euerie other lawfull act and thing, good, necessarie and profitabile for the said incorporation, in as full and ample manner and forme to all intents, constructions, and purposes, as any other incorporations or bodie politique or corporat, fully and perfectly founded and incorporated, may doe. And that the same governours and their successors for the time being may haue and vse a common Seale for the making, graunting, and demising of such their demises and leases, and for the doing of all and every other thing touching, or in any wise concerning the said incorporation, In which seale shall bee ingrauen the Names of the said Thomas Sutton your suppliant: And also that it may bee further enacted by the authoritie aforesaid, and bee it enacted by the authoritie aforesaid, that your suppliant during his life, and the saide governours and their Successors for the time being, or the most part, of them, after his decease shall and may haue full power and lawfull authoritie to breaue, alter and change the said seale: And that your said Matorz during his life, and the said governours and their successors for the time being, or the most part of them, after his decease, shall and may haue full power and authoritie to nominate and appoint, and shall and may nominate and appoint, when & as often as he & they shall think good, such person and persons as he and they shall thinke meete to bee

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Maister, Preacher, Schoolemaister, Usher, poore men, poore children, and officers of the said Hospital, And when any of them by death, resignation, deprivation, or otherwise, shall become voide, shall and may within one moneth next after such ayordance, by writing vnder their said common seale, nominate and appoint one or more learned, godly, discreet and meet men and persons to be Maister, Preacher, Schoolemaister, Usher, poore men, poore children, and officers in the places of them and every of them so deceasing, resigning, or otherwise becomming voide, And that in case the said governoz and their successors for the time being, or the most part of them, shall not within one moneth after such ayordance make such nomination and appointment as aforesaid, That then, and so often, and in every such case, from and after the decease of your said Orator, it shall and may be lawfull to your Majestie, your heires, and successors, by your Letters Patentes vnder the great seale of England, to nominat and appoint some meet, godly and learned men in and to the places void, by such default of the said governoz and their successors for the time being, or the most part of them as is aforesaid: And that it shall and may bee lawfull to and for the said Maister, Preacher, Schoolemaister, Usher, poore people, poore children, and officers of the said Hospital to remaine, assemble, bee and cohabite together in the said house, buildings, and Hospital: And that it may be further enacted by the authority aforesaid, And bee it enacted by the authority aforesaid, That your said suppliant during his life, and that the said Governoz and their successors for the time being, or the most part of them, after his decease, shall & may have full power and authoritie, vnder the said common Seale, to make, ordaine, set downe, and prescribe such rules, statutes, and ordinances for the order, rule, and government of the said Hospital, and of the said Maister, Preacher, Schoolemaister, Usher, poore men, poore children, and officers, and their successors, and for their and every of their stipends and allowances, for or towards their or any of their maintenance and relieve, as to your said suppliant during his life, and the said governoz and their successors for the time being, or the most part of them, after his decease, shall seeme meete and convenient, And that the same orders, rules, statutes, and ordinances so by him, them, or any of them made, set downe,

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downe, as p[re]scribed as aforesaid, shall be and stand in full force and strength in Law, the same not being repugnant nor contrary to your Maiesties prerogative Royall, nor to the Lawes or Statutes of this your Maiesties realme of England, nor to any ecclesiasticall canons or constitutions of the Church of England then in force and use: And that your suppliant during his life, and the said governours and their successors for the time being, or the most part of them, and such of them as your suppliant shall thereto appoynt and nominate, shall and may, after the decease of your said suppliant, shall haue power and authoritie to viseste the said Hospital, and to order, reforme, and redresse all disorderes and abuses in and touching the gouernment and disposing of the same, And further to censure, suspend and deprive the said Maister, Preacher, Schoolemaister, Usher, poore men, poore children, and officers for the time being, and euerie of any of them, as to him and them shall seeme fitt, fit, and conuenient, So alwayes that no visestration, act or thing in or touching the same, bee had, made, or done other then by your suppliant during his life, or the said Gouernours and their successors for the time being, or the most part of them after his decease, or by such of them as your suppliant shall thereunto nominate and appoint: And also, that it may be further enacted by the authoritie aforesaid, That the said Preacher and Minister of the Word of God, which shall be placed in the said Hospital to and for the uses and purposes aforesaid, from time to time hereafter shall and may enter into, haue, hold, and enjoy the Rectory and Parsonage of Hallingbury aforesaid, in and to his owne proper use and behoofe, for and during so long time as he shall be Preacher and Minister there, without any other presentation or admission, institution, or induction, And that no lease shall hereafter bee made of the said Parsonage, or of any part or portion thereof, other than such as shall determine and end when and as soone as any such person as shall bee the Preacher or Minister of and in the said Hospital, when the same Lease shall be made, shall decease or resigne, leau[er] or bee put out and remooued from his said place of Preacher or Minister of and in the said Hospital, Having alwayes and reseruing to your Maestie, your heires and successors, and to all and every other person and persons, bodies

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bodies politike and corporate, their heires and successors, other than your suppliant and his heires, and the person and persons from whom the same were purchased and their heires claiming onely as heires, all such estate, right, title, condition, claime, possession, rents, services, commongs, demaunds, actions, remedies, recoueries, termes, interests, forfeits, commodities, aduantages & hereditaments whatsoeuer, which they or any of them shall or may haue, or of right ought to haue, of, in, to, or out of the premisses, or any of them, or any part thereof, as if this act had never bin had or made. Other then fine or fines of or for any alienation of the premisses or any part or parcell thereof. And other then respits of homage, or fines for non-payment of respit of homage, at any time hereafter to be demaunded. And other then title and right of libertie or liberties to enter into the same, or any of them, for or by reason of any statute heretofore made for, concerning, or against any Alienation or Mortmain prout per eundem actum inter alia plenius apparet.

Et vtterius Iur' predict' dicunt super sacramentum suum predictum, quod Thomas adiutac & modo Comes Suff. Dominus Camerarius Hospitij Domini Regis, ante predictum tempus quo &c fuit seisis de & in quodam capital' mesuag. siue mansional' domo communiter vocat' siue cognit' per nomen de Howard house, aliter voc' **The late dissolved Charterhouse besides Smithield**, scituat' & existen' in com. Midd' cum omnibus & singulis iuribus, membris, & pertinentijs adinde spectan' & pertinen', Ac de toto illo horreo & gardino cum pertinentijs adinde similiter spectan' & pertinen', Ac de & in toto ill' parcell' terra cum pertinentijs communit' vocat' **Pardon Church-yard**, Ac de omnibus illis duobus mesuagijs siue tenementis & duabus clausis terr' cum pertinentijs adinde adiungen', cōmunit' vocat' **Welbeche**, scituat' iacen' & existen' in dicto comitat' Midd', vnde predict' capital' mesuag. cum pertinentijs in narratione predicta mentionat' est & p̄dicto tempore quo supponitur transgr' predict' superius fieri, nec non a tempore cuius contrarij memoria hominum non existit fuit parcell', in dominico suo vt de feodo, Et sic inde seisis' existen', idē modo Comes Suff. ante predictum tempus quo &c. scilicet, nono die Maij anno regni domini Iacobi nunc regis Angliae nono, apud Westmonasterium in comitat' Midd' per quandam Indenturam suam inter ipsum modo Comitem per nomen prenobilis Thomā comitis Suff. dom. Camerarij honorabilis hospitij Dom. Regis, & quosdam

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quosdam Theopilū dominum Howard filium & hered' apparen'
dicti comitis Suff.& Thomam comitem Arundel & Surr',& Wil-
liemum dominū Howard de Nawarde in comitatu Combr. ex v-
na parte,& præfat' Thomā Sutton per nomen Thomæ Sutton de
Balsham in comitatu Cantabrig' armigeri ex altera parte factam,
Ac infra sex menses tunc proxim' sequen' in cur' dicti dom. regis
nunc de comuni banco apud Westm. predict' tunc existen', debet
modo de recordo irrotulat' scđm formā statuti in huiusmodi casu
edit' & prouis. Ac cuius vna pars tam sigill' predict' Thomæ modo
comitis Suff. quam Sigill' pdict' Theophilis domini Howard, Thom
comitis Arundel & Surr', Willielmi domini Howard signat'. Jurat' predict' in evidencijs ostens. fuit gēren' dat' eisdē die &
anno, pro & in consideratione summa tresdecim mille libraru
legalis monete Angliae per eundem Thomā Sutton prefat' Thom
com' Suff. in manibus solut', barganizauit & vēdidiit omnia & sin-
gula premissa cum pertinentijs, existen' voc' **The late dissolved
Charterhouse besidē Smithfield**, in p̄d comitatu Midd. vnde
&c. eidem Thomā Sutto, habend' & tenend' sibi & heredibus su-
is imperpetuum, ad solum opus et vsum eiusdem Thomæ hered'
& assign' suorum imperpetuum, cuius quidem Indenturæ tenor se-
quitur in hac verba, **This Indenture made the ninth day of
May in the ninth yeere of the reigne of our soueraigne lord
James by the grace of God King of England, France and
Ireland defendor of the faith, &c. and of Scotland the four
and fortie, Betweene the right honoorable Thomas Earle
of Suffolke, Lord Chamberlaine of the Kings Majesties
most honourable household, The right honourable The-
ophilus Lord Howard sonne and heire apparant of the sayde
Earle of Suffolke, The right honourable Thomas Earle
of Arundel and Surrey, And the right honourable William
Lord Howard of Naward in the Countie of Cumberland
on th'one party, and Thomas Sutton of Balsham in the coun-
tie of Cambridge Esquire on the other partie, Witnesseth
that the said right honourable Thomas Earle of Suffolke,
Theophilus Lord Howard, Thomas Earle of Arundell and
Surrey, and William Lord Howard, for and in considerati-
on of the some of thirteene thousand pounds of good & law-
full money of England, to the said Thomas Earle of Suf-
folke in hand before then sealing and delivery of these pre-
sents by the said Thomas Sutton well and truely satisfied,
contented and payed, whereof and wherewith they and eue-
ry of them acknowledge themselues fully satisfied, con-
tentend**

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tented, and paid, and thereof and of euery part and parcell thereof doe cleerely acquite, exonerate, and discharge the said Thomas Sutton his heires, executors, and administratores, and every of them for ever by these presents, haue graunted, aliened, bargained, sold, conveyed, and confirmed, and by these presents doe for them and their heires fully, cleerely, and absolutly graunt, alien, bargaine, sell, convey, and confirme unto the said Thomas Sutton his heires & assignes for ever, all that capitall mesuage or mansion house, commonly called or knowne by the name of Howard house, otherwoise called the late dissolved Charterhouse besydes Smithfield, situate and being within the Countie of Middlesex, with all and singular the rights, members, and appurtenances thereunto belonging and appertaining, And all that Orchard and Garden with the appurtenances thereunto likewise belonging and appertaining, and all that parcell of land and ground with the appurtenances commonly called Pardon Church-yard, And all those two mesuages or tenements and two closes of land and ground with the appurtenances thereunto adioyning, commonly called Noelbeche, situat, lying, and being in the said Countie of Middlesex, And also all and singular mesuages, houses, edifices, buildings, barnes, stables, dovehouses, courts, foldes, curtelages, yards, orchards, gardens, shops, cellar, lollers, closes, inclosures, wast grounds, tithes, oblations, obuentions, frutes, profits, alterages, wayes, waters, rents, reuersions, services, wayfes, straies, goods of felons, outlawes and fugitives, and all other franchises, liberties, priuiledges, jurisdictions, profits, emoluments, commodities, hereditaments, and appurtenances whatsoeuer, by what name or names soever the same be called or knownen, to the said capitall mesuage or mansion house called Howard house, or the late dissolved Charterhouse besydes Smithfield, and other the before mentioned premisses, and to every or any of them lying, belonging, or in any wise appertaining, or to or with the same, every, or any of them usually held, occupied, or enjoyed, or accepted, reputed, taken, knowne, demised, vsed, or letten as part, parcell or member of them, or any of them, And also the reuersion and reuections, remainder and remainders whatsoeuer of all & singular the premisses with the appurtenances, And all rents and yearely profits whatsoeuer reserved upon any demise,

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mis, lease estate, or grant, demises, leases, estates, or grants,
heretofore made or granted of the before mentioned premises,
or of any part or parcell thereof: And also all the estate,
right, title, interest, use, possession, reversion, remainder,
claim, & demand whatsoever of them the said Thom. Earle of Suff.
Theophilus Lord Howard, Thom. Earle of Arundel
& Surrey, & William Lord Howard, & of every of them, of in
or unto the said capitall mesuage or mansion house, commonly
called Howard house, or the late dissolved Charterhouse
besides Smithfield, And other the before mentioned premises,
or of, in, or unto every or any part or parcell thereof, And
further the said right honorable Tho. Earle of Suff. Theophilus
Lord Howard, Tho. Earle of Arundel and Surrey, &
William Lord Howard, for considerations aforesaid, haue
granted, bargained, & sold, & by these presents do grant, bar-
gaine, & sell unto y^e said Thom. Sutton his heires & assignes for
ever, All & every the deeds, evidences, charters, writings,
counterpanes of lease & leases, Indentures, exemplifications,
Letters patents, transcripts of fines & recoveries, rec-
ters, court rolls, surueys, presentments, boundaries, escriptis,
& minimentis whatsoever touching or in any wise blyt con-
cerning the said capitall mesuage or mansion house, & other
& before mentioned premises, or any part or parcell thereof only:
To haue & to hold the said capitall mesuage or mansion
house called Howard house, or y^e late dissolved Charterhouse
besides Smithfield, houses, buildings, orchards, gardens,
closes, inclosures, tenements, & hereditaments, & all other y^e
premises before, in, or by these presents bargained & sold, or
mentioned, intended, & meant to be bargained & sold, & every
part & parcel thereof w^t the appurtenances unto the said Tho.
Sutton his heires & assignes for ever, To the sole, only, & pro-
per use & behoove of him y^e said Thom. Sutton his heires & as-
signes for evermore absolutely, without any maner of condi-
tion, redēption or revocation in any wise, And the said Tho.
Earle of Suffolke and his heires the said capitall mesuage
or mansion house called Howard house, or y^e Charterhouse,
& all & singalar other the before mentioned premises, withall
their & every of their appurtenances, & every part & parcell
therof, unto y^e said Thom. Sutton his heires and assignes for
ever, in maner and forme aforesaid, against hem the said Tho.
Earle of Suffolke and his heires, and all and every other
person and persons lawfully claiming by, from, or vnder
him, shall and will warrant and for evermore defend by

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these presents: And the said Theophilus Lord Howard and his heires the said capital mesuage or mansion house called Howard house, or the Charterhouse, And all and singular other the before mentioned premisses and every part & parcell thereof with the appurtenances, unto the said Thomas Sutton his heires and assignes for ever in maner and forme aforesaid, against him the said Theophilus Lord Howard & his heires, & all & every other person and persons lawfully claiming by, from, or under him, shall and will warrant and for evermore defend by these presents: And the said Thomas Earle of Arundel and Surrey and his heires the said capital mesuage or mansion house called Howard house, or the Charterhouse, And all and singular other the before mentioned premisses, and every part and parcel thereof with the appurtenances, unto the said Thomas Sutton his heires and assignes for ever, in maner & form aforesaid, against him the said Thomas Earle of Arundel & Surrey & his heires, And al & every other pson & psons lawfully claiming by, from, or under him, shall and will warrant and for evermore defend by these presents: And the said William Lord Howard & his heires the said capital mesuage or mansion house called Howard house, or the Charterhouse, and all and singular other the before mentioned premisses, & every part and parcel thereof with the apurtenances, unto the said Thomas Sutton his heires & assignes for ever, in maner and forme aforesaid against him the said William Lord Howard and his heires, & all and every other person and persons lawfully claiming by, from, or under him, shall and will warrant and for ever defend by these presents: In witnesse whereof the parties aboue named to these present Indentures interchangeably haue set their hands and sealed the day and yeere first aboue written 1611. prout per eandem Indenturam, dat ut predictum plenius apparat, Quæ omnia & singula præmissa per Indetur' pred' in forma predicta barganizat' cognoscunt' & vulgariter appellantur & tempore barganizat' pred' cognoscebantur per nomen of the late dissolved Charterhouse besides Smithfield.

Quorum quidem barganizat' venditionis, & irrotulament' prædictu, Necnon vigore cuiusdam actus in parlamento dom. Henrici du regis Angliae octauii apud Westmonaster. predictam, quarto die Febr' anno regni sui vicesimo septimo, de usibus in possessionem transferend' tent' edit' & prouis. idem Thomas Sutton in omnia & singula præmissa barganizat' vocat' the late dissolved

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dissolued Charterhouse besides Smithfield cum pertinacia vnde
&c. intravit, & fuit inde seisis in dominico suo ut de feodo; Et sic
inde seisis' existent' dom. Iacobus nunc Rex Anglie, postea & ante
predictum tempus quo &c. scilicet vice primo secundo die Iulij ah.
regni dicti domini Regis nunc Anglie &c. nono supradicto, apud
Westmon' predictam fecit quasdam literas suas parentes magno
sigillo suo Anglie sigill', ac Iur' predictis in evidenc' offens. qua-
rum tenor sequitur in hæc verba.

James by the grace of God King of England, Scotland, France & Ireland, defendorz of the faith &c. To all to whom
these presents shal come greeting, wheras at the last session of parliament last past, one act was made and passed
intituled an act to confirme & enable the erection & establishment
of an Hospital, a free grammar schoole, and sundrie other
godly & charitable acts and usges, done & intended to be
done & performed by Thomas Sutton Esquire, As by the same
act of Parliament more at large it doth and may appear: And where as althence the said act, the saide Thomas Sutton
hat q purchased to him and his heires of our right trusty and
welbeloued cosyn & Councellor, Thomas Earle of Hull, Lord
Chamberlain of our household a great and large mansion
house, commonly called the late dissolued Charterhouse be-
sides Smithfield, together with divers houses, buildings,
courts, yards, gardens, orchards, closes, & other heredita-
ments to or with the same mansion house bld or enioyed,
or reputed as part, parcel, member, or belonging thereto in
within our county of Hidd, which mansion house and other the
premisses the said Thomas Sutton doth conceiue to be a more
fit and comodious house and place, to place, erect, and found
the said Hospital and free schoole, and other the godly and
charitable usges aforesaide than in Hallingbury alias Hal-
lingbury Butchers in the saide acte mentioned, And to
that end the saide Thomas Sutton hath beeue an humble
suitor unto vs, That wee would be graciounly pleased to
giv licence, power, and authoritie bne him the said Tho-
mas Sutton, to found, erect, and establish an Hospital and free
schoole, and other the godly and charitable usges by him in-
tended, in the said house called the late dissolued Charter-
house besides Smithfield in the said premisses in our said
countie of Middlesex, And to incorporate the gouernours of
the same hereafter named, to be a body coporata a politike,
and to haue perpetuall succession for ever in fact, deede, and

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name, And by such name of incorporation as is hereafter mentioned to haue full authoritie and lawfull capacity and ability to purchase, take, hold, receive, & haue to them and their successors for ever maner, lands, tenements, tithes, rents, reverions, annuitie, pensions, hereditaments, goods, & chattels whatsoeuer as wel of vs our heires & successors, as of any other person & persons whatsoeuer, for þ better maintenance of the said Hospital, free-schoole, & other the godly & charitable uses aforesaid: Know yee therefore, That we gratiuously affecting so good and charitable a worke, of our princely disposition and care for the furtherance therof, and of our especial grace, certain knowledge, and meere motion, haue given, granted, & confirmed, And by these presents doe give, grant, & confirme, for vs our heires & successors, unto þ said Thomas Sutton his heires, executors, administrators, & assignes, and to every of them full power, licence, & lawfull authoritie, at all times hereafter at his & their will & pleasure, to place, erect, found, & establish at or in the said house called the late dissolved Charterhouse besides Smithfield, and other the premisses within our said countie of Middle, one Hospital, house, or place of abiding for the finding, sustentation, & relief of poore, aged, maimed, needy, or impotent people, As also þ the said Thomas Sutton during his life, and after his death the Gouernorz hereafter named & their successors, & the suruiuor & suruiuor of them & his & their successors for ever, And the Gouernorz thereof for the time being and their successors, shall haue full power, licence, and lawfull authoritie, at his & their wills & pleasures respectively, from time to time and at all times hereafter, to place therein such maister or head of the said Hospital, & numbers of poore people men & children, & such other numbers & officers of the said Hospital, as to him the said Thomas Sutton during his life, and after his death to the said gouernorz & their successors, and to the suruiuor & suruiuor of them and to his & their successors, and to the gouernorz therof for the time being and their successors, shall seeme conuenient, And further we, of our said especiall grace, certaine knowledge, & meere motion, haue given, granted, & confirmed, And by these presents doe give, grant, & confirme, for vs our heires & successors, unto þ said Thomas Sutton his heires, executors, administrators, and assignes, and to every of them, at his & their wills & pleasures, ful power, licence, & lawfull authority,

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at all times hereafter, to place, erect, found, and establish, at or in the said house called the late dissolved Charterhouse besides Smithfield & other the premisses in our said county of Midd, one free schoole for the instructing, teaching, maintenance, & education of pooze children or schollars. And that the said Thomas Sutton during his life, & after his decease þ gouernours hereafter named, & their successors, & the suruiuors & suruiuor of them & his & their successors for ever. And the gouernors of the said Hospital for the time being & their successors, shall haue full power, licence, and lawfull authoritie, at his or their wils & pleasures, from time to time & at all times hereafter, to place therein such numbers of pooze children or schollars, as to him the said Thomas Sutton during his life, & after his death to the said gouernors & their successors, and to the suruiuors and the suruiuor of them & his and their successors, & to the gouernors of the said Hospital for the time being, & their successors, shall seeme convenient. And likewise one learned, able, and sufficient person, to be schoolemaster of the said Schoole, & one other learned, able, and sufficient person to be Usher thereof to teach and instruct the said chidren in Grammar. And also one learned and godly Preacher to preach and teach the word of God to all the said persons, pooze people, and chidren, members and officers, at or in the said house: And further we, of our said especiall grace, certaine knowledge, & meere motion, haue ordained, constituted, assignd, limited, & appointed. And by these presents for vs our heires and successors doc or deine, constitute, assigne, limit, and appoint, that the said house and other the premisses, shal from henceforth for ever hereafter be, remaine, and continue, and be conuerted, employed, & vsed for an Hospital & house & place for the abiding, dwelling, sustentation, and relieve of such numbers of pooze people, men & chidren, as the said Thomas Sutton during his life, and after his death the gouernors hereafter named and their successors, and the suruiuors and suruiuor of them and his and their successors, And all and every the gouernors of the said Hospital for the time being and their successors, shall name, assigne, limit, or appoint to be lodged, harboured, abide, & to be maintained & relieved there, And for the abiding, dwelling, sustentation, and relieve of such numbers of pooze chidren as the said Thomas Sutton during his life, and after his death the gouernors hereafter named

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and

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and their successors, and the successours and successour of them and his and their successors, and the governores of the said Hospital for the time being and their successors, shall from time to time name, assigne, limit, or appoint to bee lodged, harboured, abide, and to bee maintained and relieved there. And for the abiding, dwelling, sustentation, and finding of one Schoolemaster, one Ulster, and one Preacher as is aforesaid, and of one headdie Maister of the said house & Hospital. And that it shall and may be lawfull to and for the said maister, preacher, schoolemaster, Ulster, poore people, children, members, & officers of the said Hospital, or thereto be placed, for the time being, to assemble, be, remain, abide, & cohabite together in the said Hospital. And that the saide Hospital shal for euer hereafter be incorporated, named, and called, The Hospital of K. James, founded in Charterhouse within the county of Middlesex, at the humble petition and onely costs & charges of Thomas Sutton Esquire. And the same Hospital and free Schoole by the name of the Hospital of King James, founded in Charterhouse within the County of Middlesex, at the humble petition & onely costs and charges of Thomas Sutton Esquire, we doe stirmly by these presents, for vs our heires and successors erect, found, establish, & confirme to haue continuance for euer: And for the better maintenance and continuance of the said Hospital and free Schoole and the said godly and charitable bles, intents, and purposed, and that the same may haue and take the better effect, And that all and euery the manors, lands, tenements, rents, reuersions, services, and hereditaments, goods & chattels to be giuen, granted, conneyed, assinged, devised, willed, limited, or appointed for the maintenance, sustentation, and relieve of the persons aforesaid in the same Hospital, may be the better governed, vsed, employed, & bestowed for the maintenance of the persons in the said Hospital for the time being to haue continuance for euer, we wil and ordaine, and doe appoint, assigne, limit, & name, And for vs our heires and successors do grant, and ordaine by these presents, That there shall be for euer hereafter 16. persons which shalbe called governores of the lands, possessions, revenues, and goods of the Hospital of King James, founded in the Charterhouse within the county of Middlesex, at the humble petition & onely costs & charges of Thomas Sutton Esquire, & for that purpose we haue elected, nominated, ordained, assinged, constituted, limited, & appointed

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apointed, And by these presenes doe for vs our heires & suc-
cessors elect, nominat, ordaine, assigne, constitute, lymitt and
appoint the right reverend father in God George now arch-
bishop of Canterbury, our right trusty & welbeloued Coun-
cillor, Thomas Lord Ellesmere Lord Chancelloz of Eng-
land, our right trusty and welbeloued cousin and Councel-
lor Robert Earle of Salisbury Lord high Treasourer of
England, Iohn the elect Bishop of London, Launcelot now
Bishop of Ely, sir Edward Coke Knight chiefe Justice of the
common plees, sir Thomas Foster Knight, one of our Justices
of our court of common plees, sir Henry Hobart Knight and
Baronet our Attorney general, Iohn Ouerall now Deane of
the Cathedral Church of Saint Paule in London, George
Mountaine Deane of the collegeat Church of Westminster,
Henry Thursby Esquire, one of the maisters of our court of
Chauncery, Gessery Nightingale Esquire, Richard Sutton Es-
quire, John Law gentleman, Thomas Browne gentleman, and
the maister of the Hospital of King James, founded in Char-
terhouse within the countie of Midd, at the humble petition
& only costes and charges of Thomas Sutton Esquire, & such
person and persons as shall from time to time be maister or
maisters of the said Hospital for & during such time as they
shalbe maister or maisters therof, to be the first & present go-
vernoz of the lands, possessions, revenues, & goods of the
Hospital of King James, founded in charterhouse within the
countie of Midd, at the humble petition and only costes and
charges of Thomas Sutton Esquire, & that they & the surui-
uorz of them, and such as the suruiuorz & suruiuoz of them
shall from time to time elect & choose to make vp the num-
ber of 16. when & as often as any of them or any of their suc-
cessors shal happen to decease, or be remoued from being go-
vernoz or governoz thereof, shall be incorporated and haue
a perpetual succession for ever in deed, fact, & name, And shal
be one body corporat & politique, And that the said personz
& their successors, & the suruiuorz & suruiuoz of them & his
& their successors, & such as shalbe elected and chosen to suc-
ceed them as aforesaid, shall be incorporated, named, and
called by the name of the governoz of the lands, possesstions,
revenues, and goods of the Hospital of King James, founded
in the Charterhouse within the countie of Middlesex, at the
humble petition and only costes and charges of Thomas Sutton
Esquire, And them by the name of the governoz of the
lands

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lands, possessoins, reuenues, and goods of the Hospital of King James, founded in Charterhouse within the countie of Midd, at the humble petition and onely costis and charges of Thomas Sutton Esquire, one body corporat & politique by that name to haue perpetuall succession for euer to endure, We do by these presentes for vs our heires and successors really and fully incorporat, make, erect, ordaine, name, constitute, and establish, And that by the same name of the gouernors of the lands, possessions, reuenues, & goods of the Hospital of King James, founded in Charterhouse within the county of Midd, at the humble petition & onely costis & charges of Thomas Sutton Esquire, they & their successors, & successuorz and suruiuorz of them and his and their successors, and the persons to be elected and chosen as aforesaid, shall for euer hereafter be incorporated, named, & called, and shall by the same name haue perpetuall succession for euer, And that they by the same name be and shalbe and continue persons able & capable in the law from time to time, And shall by that name of incorporation haue full power, authority, & lawfull capacite & ability to purchase, take, hold, receive, employ, and haue to them and their successors for euer, as well goodz & chattels, as manors, lands, tenements, rents, reuenings, annuitie, and hereditaments whatsoeuer, as well of vs our heires and successors, as of the saide Thomas Sutton his heires, executors and assignes, or any other person or persons whatsoeuer, And also that the said gouernors for the time being and their successors, shall haue full power, & lawfull autoritie by the aforesaid name of gouernors of y lands, possessions, reuenues, and goods of the Hospital of King James, founded in Charterhouse within the county of Midd, at the humble petition and onely costis & charges of Thomas Sutton Esquire, to sue and to be sued, implead and to be impleaded, to answer and to be answered vnto in all manner of courts & places that now are or hereafter shalbe with in this our realme or elsewhere, as wel temporal as spiritual, in all manner of suits whatsoeuer, and of what nature & kind soever suchsuits or actions be or shalbe, in y same & as aple maner & forme to all intents, constructions, & purposes as any other person or persons, bodies politike or corporat of this our realme of England being able persons in law may doe: And furthermore we will and grant by these presentes for vs our heires and successors vnto the said gouernors for the

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the time being and their successors, that they and their successors shall haue and enjoy for euer a common seale, wherein shall be ingauen the name and armes of the said Thomas Sutton, Whereby the same corporation shall or may seale any manner of instrument touching the same corporation, and the manors, lands, tenements, rents, reuections, annuities and hereditaments, goods, chattels and other things thereunto belonging, or in any wise touching or concerning the same: Neuerthelesse it is our true intent and meaning, That the said Gouvernoz for the time being and their successors, nor any of them, shall doe or suffer to be done, at any time hereafter, any act or thing whereby or by meanes whereof any of the manors, lands, tenements, rents, reuections, annuities, or hereditaments of the said incorporation, or any estate, interest, possession, or propertie of or in the same, or any of them shall be conueyed, vested, or transferred in or to any other whatsoeuer contrary to the true meaning hereof, other than by such leases as are hereafter mentioned. And that in such manner and forme as is hereafter expressed, and not otherwise, And that such construction shall be made vpon this foundation and incorporation, as shall be most beneficall and availeable for the maintenance of the poore, and for the repressing and avoinding of all acts and deuices to be inuented or put in vse contrary to the true meaning of these presents: And therfore our will and pleasure is, and so for vs our heires and successors we doe ordeine, That the said Gouvernoz for the time being or their successors or any of them, shall not make any lease, grant, conuiance, or estate of any the saide manors, lands, tenements or hereditaments which shall exceed the number of one and twenty yeeres, and that either in possession, or not above two yeeres before the end and expiration or determination of the estate or estates in possession, And whereupon the accustomable yearely rent or more by the greater part of five yeeres next before the making of any such lease reserved, due, or payable, shall not be reserved and yearely payable during the continuance of every such lease: And also we doe ordaine, graunt, and appoint by these presents for vs our heires and successors, That so often and whensoeuer any one or more of the saide Gouvernoz for the time being, or any other Gouvernour or Gouvernoz that shall be chosen hereafter, shall fortune to depart

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depart this life or to be remoened from his or their place of
gouvernor or governores, That then and so often the residue
of the said Gouvernor and Gouvernours and their Success-
ors, shall be, continue, and remaine incorporate by the same
name of the Gouvernours of the lands, possessions, revenues
and goods of the Hospital of King James, founded in Char-
terhouse within the Countie of Middlesex, at the humble
petition and onely costes and charges of Thomas Sutton Es-
quire, to all intentes, constructions, and purposes according
to the true meaning of these presentes, as at all the said Go-
uernor and Gouvernours had continued, And that then
and so often it shalbe lawfull for the rest of the Gouvernours
or the greater number of them to elect, nominate, choose,
and appoint one or more meere person or persons, accord-
ing to the true intene and meaning of these presentes, into
the roome and place or roomes and places of every such
Gouvernor or Gouvernours which shall so depart this life or
be remoened, which person and persons so nominated, elec-
ted, chosen, and agreed vpon by the said Gouvernours or by
the greater number of them, shall bee, and shall bee reputed
and taken from the time of his or their election, to bee from
thenceforth together with the others, Gouvernours of the
said Hospital, And after this manner to proceed whensoe-
ver and as often as need shall require, And the same electi-
on to be made within two moneths that any of the said Go-
uernor or Gouvernours shall depart this life or bee remo-
ened: And that the said Thomas Sutton during his life, And
after his decease the said Gouvernours for the time being or
the more part of them, shall haue full power and authoritie
to nominate, assigne, and appoint, and shall and may name,
assigne, and appoint, when and as often as hee and they
shall thinke good, such number and numbers of person
and persons as hee and they shall thinke conuenient to bee
poore men, childdren, and Schollars, Maister, Preach-
er, Schoolemaitster, Usher, Members, Officer and Offi-
cers of or for the saide Hospital, as hee the saide Thomas
Sutton during his life, and after his decease the Gouer-
nours for the time being and their successors, or the more
part of them, shall thinke meete and conuenient: Neuer-
thelesse if the Rents, Reuenues, or Profites of all or any
of the Manors, Lands, Tenements, and Hereditaments,
Goods,

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goods or chattels, at any time to be graunted and conueyed to the said Gouvernours of the said Hospitall and their successors for the maintenance of the people in the said Hospitall, shall happen to encrease or to bee raised or augmented to a better or greater pearely value then formerly the same was, Or that the rents, reuendes, and possessions of the said Hospitall shall be further increased by the determination of any former estates in any of the said posses-sions of the said Hospitall, or otherwise, That all and every such encrease shall be employed to the maintenance of more and other poore people to be placed in the said Hospitall, or to the further augmentation of the allowances of those persons that for the time being shall bee in the saide Hospitall according to the true intent and meaning of these presents, and shall not be conuerted or employed to any privat vse: And also we doe by these presents, for vs our Heires and Successors will, graunt, and ordaine, That whensoeuer and as often as any of the said places or roomthes of any of the said Maister, Preacher, Schoolemaister, or Usher, Pooze men, or children, Schollers, members, or Officers, or any of them, shall happen to become boyde by death, resignation, depriuation, or oþerwise, That then and so often it shall and may bee lawfull for the said Thomas Sutton during his life, and after his death for the said Gouvernours for the time being and their successors, or the most part of them, within one Moneth after such auoydance by writing vnder the Seale of the saide Thomas Sutton during his life, and after his death by the said Gouvernours for the time being and their successors vnder their common Seale, to nominate and appoint other meet person and persons in the roomthes, place, and places of them and every of them so deceasing, resigning, or oþerwise becomming void: And if in case the said Gouvernours and their successors for the time being, or the most part of them, shall not within two monethes after such auoydance nominate, assigne, and appoint as is aforesaid, That then and so often and in every such case, from þ after the death of the said Thomas Sutton, it shalbe lawfull for vs our heires and successors by Letters Patent vnder þ great seale of England or privy seale, to nominat & appoint meeete person & persons to all & every such office, roomthes, place and places as shall remaine boide for the time aforesaid by

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by the default of the said gouernours and their successors as
is aforesaid: And we do further, of our especiall grace, cer-
taine knowledge, and meere motion, for vs, our heires and
successors, give and grant, That the said Master, Prea-
cher, Schoolemaster, Ulster, pooore men, children, Schol-
lers, members, and officers of the said Hospitall, and every
of them, shall be allowed, ordered, directed, visited, placed or
displaced by the said Thomas Sutton during his life, and af-
ter his death by the said Thomas Sutton during his life, and
their successors or the more part of them, according to such
allowances, rules, statutes, and ordinances, as shall be ap-
pointed, set forth, made, devised, or established by the saide
Thomas Sutton during his life, in writing vnder his hand
and Seale, and after his death by the gouernours for the
time being and their successors or the more part of them un-
der the saide common Seale: And further wee haue giuen
and graunted, and by these presents doe giue and graunt
to the said Thomas Sutton during his life, by writing vnder
his hand and Seale, and to the saide Gouernours and
their successors for the time being, or the more part of them
after his diseas under the said common Seale, to make,
set downe, and appoint such rules, statutes, and ordinan-
ces for the rule, gouernement, and well ordering the
said Hospitall, and of the said Master, Preacher, Schoole-
master, Ulster, pooore people, children, Schollers, members,
and officers for the time being, and for their and every of
their wages, stipends, and allowances, for and towards
their or any of their maintenance and relieve as to the saide
Thomas Sutton during his life, and after his decease to the
said gouernours and their successors for the time being or
the more part of them, shall seeme meete and conuenient:
And that the same orders, rules, statutes, and ordinances so by him, them, or any of them to bee made, set downe,
and prescribed as aforesaid, shall bee and stand in full
force and strength in Law, to all constructions, intents,
and purposes, the same being not repugnant, to our
Prerogative Royall, nor contrary to the Lawes and
Statutes of this our Realme of England, Nor to
any Ecclesiasticall Canons or Constitutions of the
Church of England, which then shall bee in force: And
that for the better gouernement of the said Hospi-
tall, the saide Thomas Sutton during his life, and after
his

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his decease the said Gouvernours for the time being or the most part of them, or such and so many of them as the said Thomas Sutton shall by his writing vnder his hand and seale thereunto assigne, appoint, and nominate, shall and may after the decease of the said Thomas Sutton, haue full power and lawfull authoritie to visite, order, and punish, place or displace the Master, Preacher, Schoolemaster, Usher, poore People, Schollers, Members and Officers of the said Hospitall and every of them, And to order, reforme, and redresse all and every the disorders, misdemeanours, offences, and abuses in the persons aforesaid and every of them, or in the said Hospitall or Free-schoole, or in or touching the government, order, and disposing of the same, And to censure, suspend, deprive, and displace the said Master, Preacher, Schoolemaster, Usher, poore People, Schollers, Members, and Officers, and all, every or any of them, as to him the said Thomas Sutton during his life, and after his death, to the said Gouvernours for the time being and their Successors, or the moze part of them; or to such and so many of them as the said Thomas Sutton by any his writing vnder his hand and seale shall thereunto assigne, nominate, and appoint, shall to him or them respectiuely seeme fit, iust, and conuenient. So alwayes that no visitation, act or thing in or touching the same, bee had, made, or done by any person or persons during the life of the said Thomas Sutton, other than by the said Thomas Sutton and after his death by the saide Gouvernours for the time being and their Successors or the moze part of them, or by such or so many of them as the said Thomas Sutton by his writing vnder his hand and seale shall nominate and appoint thereunto: And wee of our further speciall grace, certaine knowledge, and meete motion, and by our supreame power and autho-ritie for vs our heires and successors to will, ordaine, and geont, that the said Hospitall, and the Master, Preacher, Schoolemaster, Usher, Members, Officers, and all other the persons to be placed in the said Hospitall, shall be for ever hereafter exempted and freed of and from all visitation, punishment, and correction to be had, vsed, or exercised in or vpon them or any of them by the Ordinacie of the Diocese for the time being, or by any other person or persons whatsoever, other then by the saide Thomas Sutton during

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his life, and after his death by the said Gouvernoz for the time being, and their successors: And further know ye, that we for the considerations aforesaid, of our especiall grace, certain knowledge, and mere motion, haue giuen and granted, and by these presents for vs our heires and successors do give and grant to the said governours of the lands, possessions, reuenues, & goods of the Hospital of King James, founded in Charterhouse within the countie of Midd, at the humble petition and only costes & charges of Thomas Sutton Esquire and to their successors for ever, our speciall licence, and free and lawfull libertie, power, & authority to get, purchase, receive and take to the & their successors for ever for y maintenance, sustentation, & relife of all & every the pson & persons to be placed in the said Hospital, of & from y said Thomas Sutton his heires & assiges y said great & large mansion house, commonly called Charterhouse besides Smithfield together with the houes, buildings, courts, yards, gardes, orchardes, closees, & other hereditaments, lately purchased by the said Thomas Sutton of the said Thomas Earle of Suff. And all those his manors and lordships of Southminster, Norton, Little Hallingbury, al's Hallingbury Bouchers, & Much Stanbridge in the countie of Essex, with all their & every of their rights, members, & appurtenances whatsoeuer, and also al those his manors and lordships of Bustlingthorpe alias Bulningthorpe & Dunnesby in the Countie of Lincoln, with their & every of their rights, members & appurtenances whatsoeuer, And also all those his manors of Salthrop alias Salthrop al's Halthrop, Chilton, & Blackgroue in the countie of Wiltes, with their & every of their rights, members & appurtenances, and also all those his lands and pasture groundes called Blackgroue, containing by estimation two hundred acres of pasture with thappurtenances in Blackgroue & Wroughton in the said countie of Wiltes, and also all that his manor of Missenden otherwise called y manor of Missundene in the parishes of Wroughton Lydyerde and Tregose in the laid countie of Wiltes, with all his rights, members, and appurtenances, And all that his manor of Elcombe and Parke called Elcombe Parke with the appurtenances in the said County of Wiltes, And also all that his manor of Wartescote alias Wiglescote al's Wigelscote w the appurtenances in the said county of Wiltes, And also all that his manor of Wescote alias Weseete with the

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the appurtenances in the said county of Wilts, And also all those his lands & pastures containing by estimation one hundred acres of land, and threescore acres of pasture, with the appurtenances in Wiglescote and Norroughton in the saide countie of Wilts, And all that his manor of Wincote with the appurtenances in the said county of Wilts, And also al those his two mesuages & one thousand acres of land, two thousand acres of pasture, three hundred acres of Meadow, and three hundred acres of wood with thappurtenances in Brodehinton in the said county of Wilts, And also all those the manors & lordships of Capes al's Campes castle otherwise called Castle Capes to thappurtenances situate, lying, being, extending in the counties of Cambridge & Essex, or in either of them, or elsewhere within the realm of England, & also all that his manor of Balshā in the Countie of Cambridge, to all & singular the rightes, members, & appurtenances, thereof whatsoever, & also al those his mesuages & lands situate, lying & being in the parishes of Hackney & Tottenham in the countie of Middle or in either of them, with their & every of their rightes, members, & appurtenances whatsoever, which said mesuage was lately purchased of Sir William Bowyer knight, and the said land in Tottenham now are or lately were in the tenure or occupation of William Benning Peoman, And also all and singular the Manors, Lordships, Mesuages, Lands, Tenements, Reuections, Seruices, Meadowes, Pastures, Woods, Aduowsons, Patronages of Churches and Hereditaments of the saide Thomas Sutton whatsoever, situate, lying, or being within the said counties of Essex, Lincolne, Wilts, Cambridge, and Middlesex, or in any of them, with all and every their rightes, members, and appurtenances whatsoever or any such and so many and such part of the saide Manours, Aduowsons, Lands, Tenements, and Hereditaments, or of any part thereof, as the saide Thomas Sutton shall think meet, And also all Letters patents, Indentures, Deedes, Evidences, Bonds, and writings concerning the premisses or any of them, which shall bee so ginen and granted by the said Thomas Sutton to the said Gouvernours and their Successors, and all such conditions, warrants, bouchers, actiōs, suits, entrieys, benefits, & demands as shall be or may be had by any pson or ps ons vpon or by reason of the or any of the (except all his manors or lordships of Littlebury

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glebury and Haddesstocke with the appurtenances in the said county of Essex aforesaid or in either of them, though the premises or any of them bee holden of vs immediatly in chiefe, or by knyghts service, or otherwise howsoeuer, And without any licence or pardon for alienation of them or any of them, the statute of Mortmaine, or any other Act, statute, ordinance, or provision to the contrary in any wise notwithstanding: And also wee doe giue and grant like licence, power, and authoritie to the said Thomas Sutton his heires and assignes to giue, grant, and assure unto the said Gouvernours and their successors for the usges, intentes, and purposes aforesaid, all and every the said great and large Maner house commonly called Charterhouse besides Smithfield, together with the houses, buildings, courts, yards, gardens, orchards, closes, and other hereditaments lately purchased by the saide Thomas Sutton of the said Thomas Earle of Suffolke, And all those his Manors and Lordships of Southminster, Norton, Little Hallingbury alias Hallingbury Bouchers, & Much Hanbridge in the said countie of Essex, with all their and every of their rights, members, and appurtenances whatsoeuer, And also all those his Manors and Lordships of Bustingtonhorne alias Bulinghorne and Dunnesby in the county of Lincolne, with their and every of their right, members, and appurtenances whatsoeuer, And also all those his Manors of Halthorpe alias Haltcroke alias Haltherope alias Halsdrop Chilton and Blaekegroune in the Countie of Wiltes, with their and every of their rights, members, and appurtenances, And also all those his lands and pasture grounds called Blaekegroune, containing by estimation two hundred acres of pasture with their appurtenances in Blaekegroune and wroughton in the said countie of Wiltes, And also all that his manor of Misenden otherwise called the manor of Misunden in the parishes of wroughton Lydeyard and Tregose in the said Countie of Wiltes, with all his rights, members, & appurtenances, And all that his manor of Elcomb & the Parke called Elcomb Parke with the appurtenances in the said countie of Wiltes, And also all that his manor of Watescote alias Wiglescote alias Wigelscote with the appurtenances in the said countie of Wiltes, And also all that his manor of Wescote als wescote with the appurtenances in the said countie of Wiltes, & also all those his lands and

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and pastures, containing by estimation one hundred acres of land, & threescore acres of pasture, both the appurtenances in Wiglesworth a wþoughton in the said countie of Wiltes, And all that his Manor of Wiscote with the appurtenances in the said County of Wiltes, And also all those his two messuages and one thousand acres of Land, two thousand acres of pasture, three hundred acres of meadowe, and three hundred acres of wood with the appurtenances in Brodshinton in the said County of Wiltes, And all those his Manors and Lordships of Campes alias Campes Castle otherwise called Castle Campes with the appurtenances situate, lying, and being, and extending in the Counties of Cambridge and Essex, or in either of them, or elsewhere within the Realme of England, And also all that his Manor of Balsham in the County of Cambridge with al a singular the rightes, members, and appurtenances thereto whatsoever, And all those his messuages and lands situate, lying, and being in the parishes of Hackney and Tottenham in the Countie of Middlesex, or in either of them, with their and either of their rightes, members, and appurtenances whatsoever, which saide messuage was lately purchased of Sir William Bowyer Knight, and the saide Lands in Tottenham now are or late were in the tenure or occupation of William Benning Neoman, And also all and singular the Manors, Lordships, Messuages, Lands, Tenements, Reuections, Services, Meadowes, Pastures, Woods, Aduowsons, Patronages of Churches, and Hereditaments of the said Thomas Sutton whatsoever, situate, lying, or being within the said Countys of Essex, Lincolne, Wiltes, Cambridge, and Middlesex, or any of them, with all and every of their rightes, members, and appurtenances whatsoever, or any such, and so many and such part of the saide Manors, Aduowsons, Lands, Tenements, and Hereditaments, or of any part thereof, as the saide Thomas Sutton shal think meet, And also al Letters Patents, Indentures, Deedes, Evidences, Bondes, and writings concerning the premisles or any of them, which shall bee so given and graunted by the said Thomas Sutton to the said Gouernours and their Successors, and all such conditions, warraues, bouchers, actions, suits, entries, benefits, & demands, as shall bee or may bee had by any person or persons upon

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or by reason of them or any of them (except all his Manors
or lordships of Littlebury and Haddesstocke with chappu-
tenances in the said countie of Essex aforesaid) or in either
of them, though the premisses or any of them bee holden
of vs immediately in chiere, or by knightes service, or other-
wise howsoever, and without any licence or pardon for ali-
enation of them or any of them, the statute of Mortmaine,
or any other act, statute, ordinance, or provision whatsoe-
ver to the contrary in any wise notwithstanding. And our
further will and pleasure is, and we doe by these presents for
vs our heires & successors ordaine & strictly charge & command,
That whensoever and as often as any of the churches, par-
sonages, vicarages, chappells, or other spirituall livings,
the aduowsons, patronages, or donations wherof are
hereby meant, or mentioned to be licenced to be given by
the said Thomas Sutton to the saide gouernours & their suc-
cessors for and towards the maintenance of the said godly
and charitable uses, shall happen to be hold or become pre-
sentative or presentable, or to be gwen or collated unto, by
the death, resignation, or deprivation of any incumbent
or incumbents of them or any of them, or by any other
meanes howsoever, that then and so often the said Gouer-
nours for the time being, and their successors, or the greater
part of them for the time being, shall present, preferre, and
collate thereunto such meete and sufficient persons as they
shall thinke fit. Neverthelesse our full meaning and direc-
tion in this behalfe is, and so we doe by these presents for
vs our heires and successors ordaine and declare, that such
and so many of the Schollars which shal from time to time
be brought vp and taught in the said Hospital and every
of them, as shall after bee fully qualifid and become meet
to take vpon them or any of them the charge of the said
Churches, Rectories, Parsonages, Vicarages, Chappells,
or other spirituall livings aforesaid, shall as neare as may
be from time to time, be by the said Gouernours and their
successors, presented, preferred, and collated thereunto be-
fore any other person or persons whatsoever, avoing as
much as may bee the giving of moxe benifices then one to
any one incumbent: And to the end that all suspition of im-
direct dealing, which might hereafter be used or put in prac-
tise by the aforesaid Gouernours or their successors, or any
of them, contrary to the true intent and meaning of
these

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these presents, may be prevented and taken away, our wills and pleasure is, and wee doe by these presents for vs our heires and successors ordeine and streghtly charge and command, That the mannor, lands, tenementes, and hereditaments, and other things which at any time hereafter shall be givene, graunted, or conueyed for the maintenance of the said godly and charitable vies before in these presents mentioned, nor any part or parcell of them or of any of them, shall at any time hereafter be by the said Gouvernours or their successours, or any of them leased, demised, graunted, or conueyed to them the said Gouvernours, or their successours or to any of them, or to any other person or persons whatsoeuer, for or to the use, benefite, or behooke of the said Gouvernours, or of their successours, or any of them, Although expresse mention of the cleare yearely value and certainete of the premisses, or any of them, or of any other giftes or grauntes by vs or any of our progenitours or predecessorors to the foresaid Thomas Sutton heeretofore made, is not made, or any statute, acte, ordynance, provision, proclamation, or restraint to the contrary hereof had, made, or detayned, or provided or any other thing, cause, or matter whatsoeuer in any wise notwithstanding: In witnessse whereof wee have caused these our Letters to bee made patent, witnessse our selfe at Westminster the two and twentieth day of June in the ninth yeare of our reigne of England, France, and Ireland, and of Scotland the xliiiij, prout per easdem literas patentibus plenius liquet & appetat.

Et ultius Iur' predict' dicunt super sacramentum suum predictum, quod predictus Tho. Sutton de omnibus & singulis premissis predictis cum pertinentijs in forma predicta scilicet existet, idem Thomas Sutton postea, & ante predictum tempus quo &c. scilicet tricesimo die Octobris anno regni domini Iacobi nunc Regis Angliae nono supradicto, fecit quoddam scriptum suum sigillo suo sigillat', gerent' dar' eisdem die & anno, Ac Iur' predictis in evidenc' ostens. cuidam Iohanni Hutton Clerico, tenor cuius quidem scripti sequuntur in hæc verba.

To all to whom these presents shall come, Thomas Sutton of Balsam in the countie of Cambridge, Esquire, sendeth greeting: Whereas it hath pleased the Kingg most excellent Majestie that now is, by his highnesse letters patent bearing date at Westminster the two and twentieth day

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Day of June, in this present ninth yeare of his Highnesse
reigne ouer England, upon the humble suit of the said Tho-
mas Sutton, to give licence, power & authority to him the said
Thomas Sutton, to place, found, & erect an Hospitall and free
Schole in the house called the late dissolved Charterhouse
besides Smithfield in the Countie of Middlesex, And like
licence, power and authoritie for him the said Thomas Sutton,
at any time during his life to ordaine, appoint, and place
a Master of the said Hospitall, and that the said Hospitall
should be called by the name of the Hospital of King James,
founded in Charterhouse within the countie of Middlesex,
at the humble petition and onely costes and charges of Tho-
mas Sutton, Esquire: And where furthermore by the said let-
ters patent the Master of the said Hospitall for the time
being is ordained and appoynted to bee one of the sixteene
Gouvernours of the Landes, Possessions, Reuenues, and
Goods of the sayd Hospitall, And that the same sixteene
Gouvernours are by the said letters patents incorporate to
purchase and take lands to them and their successours for e-
uer, for the maintenance of the said Hospitall, by the name
of the Gouvernours of the landes, possessions, reuenues, and
goods of the Hospital of King James, founded in Char-
terhouse within the County of Middlesex, at the humble peti-
tion and onely costes and charges of Thomas Sutton Esquire,
as by the said Letters patents (among other things) more
at large may appeare: By reason whereof, there must be a
Master made before such time as the said Thomas Sutton
can conuey the lands intended by the said Thomas Sutton to
be conueyed for the maintenance of the said Hospitall unto
the said Gouvernours, according to the said letters patents:
Now the said Thomas Sutton, minding the performance of
the said charitable Act, hath according to the power giuen
him by the said letters patents, and by these presents doeth
place, ordaine, nominate, constitute and appoynt his righte
trustie and welbeloued John Hutton Clerk the first & present
Master of the Hospital of King James, founded in Char-
terhouse within the County of Middlesex at the humble peti-
tion and onely costes and charges of Thomas Sutton Esquire,
To haue and to holde the said Office, roome, and place of
Master of the said Hospitall unto him the said John Hutton
from henceforth for and during the good will and pleasure
of the said Thomas Sutton: In witness wherof the said Tho-
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mas Sutton hath hereunto put his hand and seale, dated the thirtieth day of October in the ninth yeare of the reigne of our said soueraigne Lord Iames by the grace of God king of England, Fraunce and Irelaud Defendor of the faith, &c. and of Scotland the thre and fourtieth.

Et vterius Iur' predict' dicunt super sacramentum suum praedictum, quod praedictus Thomas Sutton, de omnibus & singulis præmissis praed' cum pertinentijs in forma predict' seisit' existet', postea & ante predictum tempus quo &c. scilicet primo die Novembris anno regni dicti domini regis nunc Anglie &c. nono supradict' fecit quandam Indenturam suam, inter ipsum Thomam Sutton per nomen Tho. Sutton de Balsham in comitar Cantabr' armiger ex vna parte, & reuerendissimum in Deo patrem Georgium dom. Archepiscopum Cantuar' primat' & metropolitan' totius Anglie, & prenobilem Thomam dom. Ellesmere dominum Cancellar' Anglie, prenobilem Rob. comit' Salisbury dominum magnum Thesaur' Anglie, reuerend' in Deo patrem Iohan. Dominum Episcopum London, reuerend' patrem in Deo Lancelot' dominum Episcopum Elien', Edward' Coke milit' dominum capital' Iust. de com. Banco, Tho. Foster milit' vnum Iustic' de communi Banco, Henricum Hobart milit' & baronet' attorn' general' dicti domini regis nunc, Iohannem Oueral Decanum cathedral' Ecclesie sancti Pauli in London, Georgium Mountaine Decanu Collegiat' Ecclesie Westm. Henr. Thursby armig' vnum magr' cur' Cancellar', Galfrid. Nightingale armig', Richard. Sutton, ar', Iohannem Law gen', Thomam Browne gen', & Iohannem Hutton Clericum, per nomina reuerendissimi in Deo patris Georgij Domini Archiepisc. Cantuar' primat' & metropolit' totius Anglie, prenobilis Thomae domini Ellesmere domin. Cancell' Anglie, prenobilis Roberti comitis Salisbury domini magni Thesaur' Anglie, reuerend' in Deo patris Iohannis domini Episcopi Lond. reuerend' patris in Deo Lanceloti domini Episcopi Elien', Edwerdi Coke militis domini capitalis Iust. de coibus placitis, Thomae Foster militis vnius Iustic' cur' de coibus placitis, Henr. Hobart milit' & baronet' attorn' general' domini nostri regis, Iohannis Oueral decani cathedral' Ecclesie sancti Pauli in London. Georgij Mountaine Decani collegiat' Ecclesie Westm. Henrici Thursby ar' vnius magr' cur' Cancellar', Galfrid. Nightingale ar', Richardi Sutton ar', Iohannis Lawe gen', Tho. Browne gen', & Iohannis Hutton clericu Magistri Hospitalis regis Iacobi fundat' in Charterhouse infra comitatum Midd ad humilem petitione & sola custag' & onera Thom. Sutton ar' primorum & presentorum Guberna-

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Gubernatorum terrarum, possessionū, reuersionum, & bonorum Hospitalis regis Iacobi fundat' in Charterhouse infra comitatum Midd' ad humilem petitionem & sola custagia & onera Tho. Sutton ar', ex altera parte fact' ac infra sex menes tunc prox. sequen', scilicet quarto die Nouemb.an.reg.dom. Iacobi nunc reg. Angliae nono suprad', in cur' Cancell' dicti dom. regis nunc, apud Westm' præd' tunc exist', debito modo de recordo irrotulat' secundū formam statuti in huiusmodi casu edit' & prouis. Ac cuius vna pars inde sigillo præd' Tho. Sutton sigillat' & Iur' præd' in evidenc' ostens. fuit, geren' dat' eisdem die & anno, cuius quidem Indentur tenor sequitur in hac verba.

This Indenture made the first day of November in the yeare of our Lord God one thousand sixe hundreth and eleven, & in the yeres of the reigne of our Soueraigne Lord James, by the grace of God King of England, Scotland, France and Ireland Defendor of the faith, &c. That is to say, of England, France & Ireland the ninth, and of Scotland the five and fortieth, Between Thomas Sutton, of Balsham in the Countie of Cambridge Esquire of the one partie, And the most Reuerend Father in God, George, Lord Archbishop of Canterbury Primate & Metropolitan of all England, And the right Honourable Thomas Lord Ellesmere Lord Chauncelloz of England, The right Honourable Robert Earle of Walsbury Lord high Treasurer of England, The right reverend Father in God, John Lord Bish. of London, The right reverend Father in God Lancelot, Lord Bishop of Elye, Sir Edward Coke, Knight, Lord Chife Justice of the Common Plees, Sir Thomas Foster, Knight, one of the Justices of the Court of common Plees, Sir Henry Hobart, Knight and Baronet, Attorney general of our Soueraigne Lord the King, John Ouerall, Deane of the Cathedrall Church of Saint Paule in London, George Mountaine, Deane of the Collegiat Church of Westminster, Henry Thursby Esquire, one of the Masters of the Court of Chancery, Jeffry Nightingale Esquire, Richard Sutton Esquire, John Law Gentleman, Thomas Browne Gentleman, and John Hutton Clerke, Maister of the Hospital of King James, founded in Charterhouse within the countie of Middlesex, at the humble petition & onely costes and charges of Thomas Sutton Esquire, the first and present Gouvernor of the Landes, Possessions, Reuenues and Goods of the Hospital of King James founded in Charterhouse with-

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in the countie of Middlesex at the humble petition and onely costs and charges of Thomas Sutton Esquire, of the other part, witnesseth, that whereas it hath pleased the kings most excellent maiestie that now is, by his highnes Letters Patents bearing date at westminster, the two and twentie day of June in this present ninth yeere of his highnes raigne ouer England, vpon the humble suit of the said Thomas Sutton, to give licence, power, and authoritie to him the said Thomas Sutton to place, erect, found, and establish, at or in the said house called the late dissolved Charterhouse besydes Smithfield within the county of Middlesex, one Hospital house, or place of abiding for the finding, sustentation, and relife of poore, aged, maimed, needy or impotent people, as also to place, found, and establish at or in the said house one free Schole for the instructing, maintenance and education of poore children or Schollers, and that the said Hospital should for ever afterwards be incorporated, named, and called the Hospital of King James founded in Charterhouse within the countie of Middlesex at the humble petition and onely costs and charges of Thomas Sutton Esquire, And that he the said Thomas Sutton during his life, and after his death the said Gouernours and their Successors for ever, should haue power, licence, and authoritie to ordaine, appoint, and place therein a Maister, a Preacher, a Schoolemaster and Usher, and such numbers of poore people, Schollers, and Officers as they shoulde thinke meet, and in default thereof his Maiestie his heires and successors, and where likewise our said Soueraigne Lord & Kings Maiestie, by the said Letters Patents, hath incorporated the said Lord Archbisshop, Lord Chancellor, Lord Treasurer, John Bishop of London, Bishop of Ely, Sir Edward Coke Knight, Sir Thomas Foster Knight, Sir Henry Hobart Knight and Baronet, John Oueral, George Mountain, Henry Thursby, Ieffery Nightingale, Richard Sutton, John Lawe, Thomas Browne, and the Master of the saide Hospital for the time being, by the name of the Gouernours of the lands, possessions, reuenues, and goods of the Hospital of king James founded in Charterhouse within the countie of Middlesex at the humble petition and onely costs and charges of Thomas Sutton Esquire, And mozeouer hath thereby granted licence, aswell to the said Gouernours and their successors, to haue, take and purchase, as also licence and

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and authoritie to the said Thomas Sutton his heires and assignes, to give, geant, and assure unto the said gouernours and their successors, for the better continuance of the laid Hospital and free schoole for ever, and for the better maintenance of the Master, Preacher, Schoolemaster, Usher, and such number of poore people, Schollers, and Officers of and in the said Hospital for ever as shall be therein placed as is aforesaid. All and every the Manors, Lands, Tenements, Rents, Reuerlions, Aduowlings, and Hereditaments hereafter herein mentioned to be granted or conueyed, as in and by the said Letters Patents among other things more at large may appeare. Sithence which saide Letters Patents the said Thomas Sutton hath by his deede or writing vnder his hand and seale, bearing date the thirtieth day of October last, ordained and appointed the saide John Hutton to bee the first and present Maister of the said Hospital, according to the purport, tenor, and true meaning of the said Letters Patents. And the said Thomas Sutton being minded in his life time to perfect the said godly and charitable act himselfe, and not to leau it to be perfورmed after his death by others. This Indenture therefore witnesseth, That the said Thomas Sutton, for and in consideration of the continuance of the saide Hospital and free Schoole for ever, and for the better maintenance of the said Master, Preacher, Schoolemaster, Usher, poore People, Schollers, and officers for ever hereafter, with the Rents, Reuenues, Issues, Commodities and Profits of the Manors, Lands, Tenements, Rents, Reuerlions, Aduowlings, and Hereditaments hereafter in these presents mentioned to be conueyed, and for and in consideration of the summe of five pounds of lawfull money of England, by the said Lord Archbisshop and other the gouernours aforesaid paid, which said summe of five pounds the said Thomas Sutton confesseth and acknowledgeth himselfe to haue received of the said gouernours, and thereof doth acquire and discharge the said gouernours for ever by these presents. And in consideration of the yearely rent of twelue pence of lawfull money of England hereafter in and by these presents reserved to the said Thomas Sutton and his heires. And for divers other good and reasonable consideracions him especially moving, hath (according to the said licence of the Kings Majestie to him the said Thomas Sutton in that behalfe given) giuen

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giuen, bargained, sold, granted, confirmed, and conveyed, and by these presents doth for him and his heires, bargaine, sell, giue, grant, confirme, and conuey unto the said Gouvernorz of the Landz, possessions, reuenues, and goods of the Hos- pitall of King James founded in Charterhouse within the County of Middlesex at the humble petition and onely costes and charges of Thomas Sutton Esquire, and to their successors for euer, All that the mansion house commonly called Charterhouse besides Smithfield in the said Coun- tie of Middlesex, And all and singular Mesnages, Hou- ses, Courts, Yards, Gardens, Orchards, Closes, and o- ther Hereditamets within the County of Middlesex, lately purchased by the said Thomas Sutton of the right ho- norable Thomas Earle of Suffolke, And all those his Mannours and Lordships of Southminster, Norton, lit- tle Hallingbury, alias Hallingbury Bouchers, and Much Stanbridge in the Countie of Essex, with all their and e- very of their Rightes, Members, and Appurtenances whatsoeuer, and also all those his Mannours and Lord- ships of Bustingthorpe alias Bustingthorpe and Dun- nesby in the Countie of Lincolne, with their and every of their Rightes, Members and Appurtenances whatsoeuer, And also all those his Mannours of Halthorpe alias Hal- thorpe alias Halthorp, alias Halstroppe, Chilton, Black- groue, Wescot, Misenden alia Misunden, Watlescot alia Wiglescote alias Wigelscete, Wescote alia wescete, & El- comb in the county of Wiltes, with their and every of their rights, members & appurtenances, and also al that his Parke called Elcombe parke in Elcombe in the said county of Wiltes with his rights, members, and appurtenances, And all those his lands & pasture groundz called Blackgroue, contain- ing by estimatiō two hundred acres of pasture with their appurtenances in Blackgroue & Wroughton in the said coun- tie of Wiltes, & also all those lands and pastures containing by estimatiō one hundred acres of land, & 60. acres of pasture, with the appurtenances in Wiglescote & Wroughton in the said county of Wiltes, And also all those his two mesnages & one thousand acres of land, 2. thousand acres of pasture, three hundred acres of meadow, and three hundred acres of wood with the appurtenances in Brodeshinton in the said countie of Wiltes, And all those his Mannours and Lordships of Campes alias Campes Castle otherwise called Castle Campes with the appurtenances, situate,

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lying, and extending into the countys of Cambridge and Essex or in either of them, or elsewhere within the Realme of England, And also all that his Manor of Balham in the County of Cambridge with all and singular the Rightes Members and Appurtenances thereof whatsoeuer, And all those his Mesuages and lands situate, lying, and being in the Parishes of Hackney and Tottenham in the Countie of Middlesex or in either of them, with their and either of their Rightes, Members, and Appurtenances thereof whatsoeuer, Whiche said last mentioned mesuage was lately purchased of Syr William Bowyer Knight, and the said Lands in Tottenham now are or late were in the Tenure or Occupation of William Benning Yeoman, And also all and singular the Manors, Lordships, Mesuages, Landes, Tenements, Rentes, Revertions, Services, Meadowes, Pastures, Woodes, Abutments, Patronages of Churches, Liberties, Priviledges, Franchises, and other Hereditaments whatsoeuer of the said Thomas Sutton, situate, lying, or being, or to be had, taken, or enjoyed within the said Countys of Essex, Lincolne, Wiltes, Cambridge and Middlesex, or in any of them, with all and every their Rightes, Members, and Appurtenances whatsoeuer, and also all Letters Patents, Indentures, Deedes, Charters, Extents, Court Roles, and other Writings, Miniments, and Evidences whatsoeuer, concerning the premisses or any of them or any part or parcell of them or any of them, Except and always forrepised out of these presents the Mannors or Lordships of Littlebury and Haddestocke with the Appertenances in the said Countie of Essex, and all and singular Mesuages, Lands, Tenements, Liberties, Priviledges, Franchises, and Hereditaments, part, parcell, or member, or accepted, reputed, or taken as part, parcell or member of the said manors of Littlebury and Haddestocke or of either of them, or to the said manor of Littlebury and Haddestocke or either of them belonging or pertaining, To haue and to hold the said mansion house, called the Charterhouse besides Smithfield and all and every the said Manors, Lordships, Mesuages, Parkes, Landes, Tenements, Rentes, Revertions, Services, Abutments, Liberties, franchises, Priviledges & Hereditaments, and all other the premisses, with their a every of their rights members, and appurtenances (except before excepted) unto the said Gouvernours of the lands, possessions, revenues and,

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and Goods of the Hospitall of King James founded in Charterhouse within the countie of Middlesex at the humble petition and onely costes and charges of Thomas Sutton Esquire and their Successors for ever, vpon speciall trust and confidence that all and singuler the Rents, ISSUES, Reuenues, Commodities, and Profits of all and singuler the said Manors, Houles, Lands, Tenements, Hereditaments, and other the Premisses with their appurtenances, shal be for ever hereafter from time to time truly, faithfully, and wholy distributed, converted, and employed by the said Gouvernours and their successors to and for the maintenance and continuance of the sayd Hospitall and free Schoole, and of the said Maister, Preacher, Scholemaister, Ulster, poore people, Schollars and Officers of and in the laid Hospitall and free Schoole for the time being, at all times hereafter, and from time to time foruer, according to the true intent, purpozt, and meaning of the sayd Thomas Sutton, and according to the tenor and purpozt of the said Letters Patents and of these presents, and to none other Trust, Use, Confidence, Intent, Purpose, or Employment whatsoeuer, Peelding and paying therefore yearlye unto the said Thomas Sutton and his heires the yearlye rent of twelve pence at the feaste of the Nativite of Saint John Baptist yearlye to be payed, And when and as often as the said yearlye rent of twelve pence shall be behinde and unpayed at any feaste whereon the same ought to bee payed, That then and so often it shall bee lawfull for the sayd Thomas Sutton and his heires into the premisses and into every or any part or parcel thereof to enter and distraine, and the distresse and distresses there taken to take, leade, and carie away, and with him and them to detaine, vntill hee and they bee satisfied of the sayd rent and the arrearages thereof if any bee: In witnessse whereof the parties first abouenamed to these present Indentures interchangeably haue set their hands and seales, giuen the day and yeare first aboue written.

Et ultius Iuratores predicti dicunt super sacramentum suum predictum, quod pred Thomas Sutton de pred premissis cum pertinentijs in com Midd vt prefertur scilicet existet id est Thomas Sutton post predictam Indentur, barganiam & venditionem

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de premissis predictis cuim pertinentijs vnde &c. per predictum Thomam comitem Suffolk. prefat' Thome Sutton fact', Ac post predict' irrotulament' eiusdem Indenturꝝ; Et ante literas patentes predictas per prefatum dominū regem nunc vt pfert' fact', et ante predict' Indentur' fact' inter predictum Thomam Sutton ex vna parte, et predictum Georgium Archiepiscopum Cantuar' primat' & metropolitan' totius Angliae, & al' de altera parte, geren' dat' primo die Nouēb. anno regni dicti dom. regis nunc nono supd' appunct' quendā Ric'm Birde fore Ianitor', Anglice **to bee poxter**, p̄d mesuagij voc' the late dissolved Charterhouse besides Smithfield p̄d Tho. Sutton, qui quidē Ric'us Birde continuavit Ianitor eiusdē mesuag' post indent' illā fact' inter p̄d Tho. Sutton ex vna pte & p̄d Georg' Archiepm Cantuar' & al' ex alter' parte geren' p̄d primo die Nomēb. ann' reg'dom. regis nunc nono supradicto, vſq; morte predicti Thome Sutton: Et vterius Iur' predict' dicūt sup sacr'm suum pred', quod predict' Thomas Sutton postea & ante p̄d tempus quo &c. scilicet, scd'o die Nouemb. anno domini millesimo sexcentesimo vndecimo, condidit testament' & ultimā voluntat' sua in script' inter alia prout sequitur in hæc verba. **And my will and meaning is, That bnesse the said sir Francis Popham and the said Lady Anne his wife doe or shall give to mine executoz or executors a general acquittance or release to the effect aboue mentioned, That then aswell the said Legacie of two thousand markes so willed to be giuen to the said Sir Francis Popham and the Lady Annē his wife, As also the other severall Legacies giuen and bequeathed to every of the said children of the said sir Francis Popham and the lady his wife, shall remaine and be to the vse of mine executoz or executors, to bee wholly disposed and giuen by them, within one whole yeere after my decease, partly to the mending of the highwayes, and partly to the pooze maydes marriages, and partly to the releasing of pooze men that lie in prison for debt, and partly to the pooze people of my intended Hospitall, when it shall please God it shall bee established and erected: Also I give for and towards the building of myne intended Hospitall, Chappell, and Schoolehouse the summe of ffe thousand pounds: Item, I give into the Treasury or Stozehouse of my intended Hospitall, to beginne their Stocke with and to defend the rights of the house one thousand pounds of lawfull English money: And I give to every one of my Foffees whom I haue put in trust about my m-**
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tended Hospital to whom I haue not giuen any thing in
this my last will, the summe of twentie six poundes thir-
teene shillings and four pence of lawfull money of Eng-
land, prout per eadem testamentū et ultimam voluntatem ple-
nius apparet: Et vterius lur' predicti dicunt super sacramentum
suum predictum, quod predictus Thomas Sutton postea &
ante predictum tempus quo &c. scilicet duodecimo die Decem-
bris anno regni dicti domini Regis nunc nono apud Hackney
in comitatu Middlesex obiit sine exitu de corpore suo legitime
procreato, Et quod predictus Simon Baxter modo querens est
et tempore mortis predicti Tho. Sutton fuit consanguineus et
proximus haeres predicti Thomae Sutton, videlicet, filius et ha-
res Dorotheæ solius sororis predicti Thomæ Sutton: Et ulterius
Iuratores pred' dicunt super sacramentum suum predictum,
quod predicti Richardus Sutton & Iohannes Lawe postea
& ante pred' tempus quo &c. Claman' vt duo Gubernatores
Terrarum, Possessionum, Reuentionum, & Bonorum Hospi-
talis Regis Iacobi fundat in Charterhouse infra comitatum
Middlesex ad humilem petitionem et sola custag' et onera Thom-
as Sutton Armiger', in nominibus & ad vsuum ill' qui nomi-
nantur Gubernatores, vt predicti, in omnia et singula premissa
predicta cum pertinentijs voc' **The late dissolved Charter-**
house besides Smithfield vnde &c. intrauer' et fuer' inde seisi-
fir', prout lex postulat, super quorum quidem Richardi Sutton
et Iohannis Lawe possessionem inde, postea & ante predictum
tempus quo &c. predictis Simon Baxter in eadem premissa cu'
pertinentijs vnde &c. intrauit & fuit inde seisis' , prout lex postulat,
super cuius quidem Simonis Baxter possessionem inde pred'
Ric'us Sutton et Iohannes Lawe predicto tempore quo &c. in
premissa predicta cum pertinentijs vnde &c. Claman' vt duo
Gubernator Terrarum, Possessionum, Reuentionum, et Bonor-
um Hospitalis regis Iacobi fundat in Charterhouse infra co-
mitatum Middlesex ad humilem petitionem et sola custog' et
onera Thomae Sutton armiger', et in nominibus & ad usum ill'
qui nominantur Gubernatores, vt predictitur, reintrauer', prout
predictus Simon Baxter superius versus eos queritur: Et ulterius
Iuratores predicti dicunt super sacramentum suum pre-
dictum, quod predicti Richardus Sutton et Iohannes Lawe in
predicto Actu Parliamenti de an' septimo Iacobi regis suprad',
& in predictis Literis Patentibus dicti domini regis, & in pre-
dict' Indentur' barganiz' & venditionis fact' inter pred' Tho-
mas Sutton ex una parte et predictos Georgium Achiepisco-

D iij

pum

Le cafe de Suttons Hospital.

pum Cantur' & al' ex altera parte geren' dat' primo die Nouēbris anno regni dicti domini regis nūc nono supradicto nominat', et p̄dicti Richardus Sutton & Iohannes Law modo defend' sunt vñz & eadē p̄sonz, & non alia neque diuersæ. Et quod p̄d' Thomas dn's Ellesmire, Rob.cōes Salisbury, reuerend' in Deo pater Lancelot' Episcopus Elien', Tho. Foster, Henric' Hobart, Iohannes Oueral, Hearicus Thursby, Galfridus Nightingale Richardus Sutton, Iohānes Law & Thomas Browne in predicto actu parliamenti de an' septimo supradicto nominat'. Ac in predictis literis patentibus domini regis, & in predicta Indentura barganiz & venditionis fact', Georgio Archiepiscopo Cantuar' et al', sunt vñz & eadē personz & non al' neque diuersæ. Et predictus reuerendus pater in Deo Georgius Archiepiscopus Cantuar', Thomas dominus Ellesmire, Robertus comes Salisbury, Iohānes Episcopus Lond', Lancelot' Episcopus Elien', Edward.Coke, Tho.Foster, Henric' Hobart, Iohannes Ouerall, Georgius Mōntaine, Hearicus Thursby, Galfrid' Nightingale, Richardus Sutton, Iohannes Lawe & Thomas Browne in predictis literis patentibus predicti domini regis mentionat', & in p̄dicta Indentura barganiz & venditionis fact' inter predictum Thomam Sutton ex vna parte et predictum reuerendum patre in Deo Georgium Archiepiscopum Cantuar', Thomam dominum Ellesmire, Robertum comitem Salisbury, Iohannē Episcopum Lond. Lancelot' Episcopum Elien', Edwardum Coke, Thomam Foster, Henricum Hobart, Iohannem Oueral, Georgium Mountaine, Henricū Thursby, Galfridum Nightingale, Richardum Sutton, Iohannem Lawe, Thomam Browne, & Iohannē Hutton ex altera parte, sunt vn' & eadem personz et nō al' neque diuersæ. Et quod omnia maneria, terræ, tenementa, & hereditamenta in predicto actu parliamenti de an' septimo supradicto, et in predictis literis patentibus per predictum dominum Regem prefato Thomā Sutton concess. Et in predicta Indentura barganiz & vēditionis fact' inter predictum Thomam Sutton & prefatum Georgium Archiepiscopum Cantuar' & al' (except' terr', tenement' & hereditam' voc' **The late dissolved Charterhouse besides Smithfield**, perquisit' de pred' Thom. comite Suffolk.) mentionat' sunt vna et eadem maneria, terr', tenementa, & hereditam' ta, & non al' neque diuersæ. Et qd' pred' terr', tenement' et hereditam' , vocat' **the late dissolved Charterhouse besides Smithfield** in pred' Indentura barganiz & venditionis fact' int' predict. Thomam Sutton & prefatum Thomam comitem Suff. & al' geren' dat' nono die Maij

- anno

Le case de Suttons Hospitall.

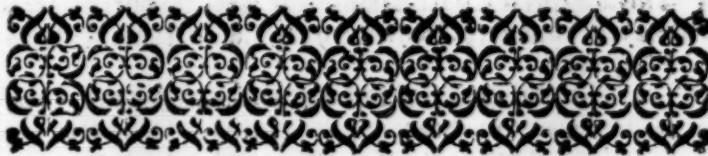
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anno regni dicti domini regis nunc nono supradicto, & in predictis litteris patentibus predicti domini regis Thomae Sutton cōfēct', Et in predicta Indentura barganiz & venditionis inter predictum Thomam Sutton et prefatum Archiepiscopum, Cantuar' et al' similiter mentionat, vnde &c. sunt vn' et eadem terr', tenement', & hereditament', & non al' neque diū. Et quod predictus Thomas Sutton in predicto actu parliamenti de anno septimo supradicto nominat', et in predict' script' predicto Iohanni Hutton fact', et in omnibus alijs conueianc', scriptis, & litteris patentibus predict' nominat', est vna & eadem persona & non al' neque diuers. Et quod predictus Georgius Mountaine tempore confectionis predictarum literarū patentium predicti domini regis fuit et nunc est decanus Ecclesiae Collegiate Westmonasterij, Et quod predictus Georgius Mountaine in predictis litteris patentibus predicti domini regis nominatus, Et predictus Georgius Mountain in predicta Indentura barganiz & venditionis per prefatum Thomam Sutton predict' Georgio Archiepiscopo Cantuar' & al' vt prefertur confect' nominat', est vna et eadem persona & non al' neque diuers. Et quod predictus Iohannes Hutton in predict' script' nominatus & in predicta Indentura barganiz et venditionis predicti Thomae Sutton nominat', est vna et eadem persona, & non al' neque diuers. Sed utrum super tota materia predict' per Iur' predict' in forma predicta compert' predicti Richardus Sutton & Iohannes Lawe sunt culpabil' de transgress. predict' necne, ijdem Iur' penitus ignor', Et per inde aduisament' cur' hic &c. Et si super tota materia pred' per Iur' predict' in forma pred' compert' videbitur cur' hic quod pred' Richardus Sutton et Iohannes Law sunt culpabil' de transgr' pred' tunc ijdem Iur' dicunt super sacrament' suum pred', quod pred' Richardus Sutton et Iohannes Law sunt culpabil' de transgr' pred' prout pred' Simon Baxter superius versus eos inde queritur, Et tunc assidunt dampn' ipsius Simonis Baxter occasione transgr' ill' vltra mis. & custag' sua per ipsum circa sectā suam in hac pte apposit' ad vnum denarium & pro mis. et custag' ill' ad duodecim denar', Et si super tota materia predict. per Iur' pred' in forma pred' compert' videbitur cur. hic qd' pred' Richardus Sutton & Iohannes Law non sunt culpabil' de transgr' pred', tunc ijdem Iur' dicunt super sacrament' suum pred', qd' pred' Richadus Sutton & Iohes Law non sunt inde culpabil', prout ijdem Ric' us Sutton & Iohes Lawe superius pro se allegauer'. Et quia cur. dn'i regis hic de iudicio suo de & su p premiss. reddend' nondum aduifatur, dies inde dar'

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dat' est pertibus qd' coram domino rege apud Westm' vsque
diem Mercurij prox. post quinden' Paschæ, de iudicio suo de et
super premissis audiend' eo quod cur' domini regis hic ind'
nondū &c. Ad quem diem coram domino rege apud Westm'
ven' partes pred' p' attorn' suos pred', Et quia cur' domini regis
hic de iudicio suo de & super pmiss. reddend' nondum aduiar',
dies inde vter' dat' est ptibus p' coram domino rege apud
Westm' vsq; diem Vener' prox. post Craftin' sc'e Trinitat' de
iudic' suo inde audiend', eo qd' cur' dicti domini regis hic inde
nondum &c. Super quo vis. & per cur' dicti domini regis nunc
hic plenius intellectis oibus singulis premissis, maturaqe deli-
beratione inde habita, pro eo quod videt' cur' domini regis nuc
hic suppr tota materia p' superius in forma p' comperta, quod
p' Richard' Sutton et Iohes Law non sunt culpabil' de trâslgr'
predict', prout ijdem Ric'us Sutton et Iohes Lawe superius pro
se allegauer', cons.est qd' pred' Simon Baxter nihil inde capiat
per billam suam pred', Sed pro falso clam' suo inde sit in mia,
Et pred' Richardus Sutton & Iohes Law eant inde sine die &c.
Et vterius cons.est qd' pred' Ric'us Sutton et Iohannes Lawe
recuper' versus p'sat' Simon' Baxter viginti quatuor libr' pro
mis. et custag' suis, per ipsos circa defens. suum in hac parte su-
stent', eisdem Richardo Sutton et Iohi Lawe ex assensi suo per
cur' dicti domini regis nunc hic iuxta formam statut' in huius-
modi casu inde nuperedit' & prouis. adiudicat', Et pred' Ri-
chardus Sutton & Iohannes Lawe habeant inde executionem:

Le



Le case de Suttons Hospitall.

Mich. 10. Iac. Rot' 574. in banke le Roy inter
 Simon Baxter pl et Rich. Sutton et
 John Lawe defendatz in trn's quare do-
 mum & clausum s'egit 30. Maij 10. Ia. in vn
 capital mese vocat le Charterhouse in le
 parish de Saint Sepulchre in le coun-
 tie de Midd, sur rien culp plead tout le
 dit special matter fuit troue : que fuit adioyn hozg del court
 del banke le Roy per les Judges de mesme le court in lesche-
 quer Chamber, et fuit argue al barre pur le pl y John Wal-
 ter del Inner Temple, Yeluerton de Graies Inne, & Dar-
 reinement per Bacon Solliciter generall, Et del part del def.
 per Couentrie del Inner Temple, Hutton Serieant del ley
 & per Hobart Attorney generall. Et le counsell del pl ar-
 guont fortement in general, 1. que la ne fuit aucun incorpo-
 ration create per les letters patentz le Roy pozt date 22. Ju-
 nij anno 9. reg. Iacobi : 2. Admittant que le incorporation fu-
 it bone, vncore ne fuit aucun foundation fait per Sutton
 solonque lauthoritez a luy done: 3. que le bargaine & sale fait
 y Sutton pozt date 1. Noueb. an. 9. Ia. fuit tout oustermt void,
 et per consequence tous les ditz possessions discendible al
 pl in particular et in le argumet de cest case, ceux points sur
 ceur grounds fuet moue. ¶ 1. Fuit object que per lacte de
 parliament 9. Februar anno 7. reg. Iacobi in le record mention,
 vn Hospital fuit loyalment erect & incorporate al Halling-
 bury in le countie de Essex, & tous les ditz manozs dones
 a ceo & per consequence le dit cozporation fait apres le dit
 act,

1. Obiectum

Le cas de Suttons Hospital.

act per les letters patentz le Roy 22. Junij anno 9. regis Iacob. bi fuit ousterment void. Nota Lecteur, le dit act ne poit doner le dit mese appel le Charter house, car Sutton purchase ceo a prez cestassauoir, 9. Maij anno 9. regis Iacob. come per le record appiert.

2. Objection. ¶ 2. Que nul Hospital fuit foundue per Sutton, & pur ceo le incorporation fault, pur ceo que Sutton and licence del roy a founder, exercer & establish vn Hospital, le quel fuit act precedent destre performe per Sutton deuant le incorporation le quel il nad fait, & issint il nad pursue son licence, le quel licence le roy puit auer countermaund, & que fuit countermaund in ley per le mort de Sutton.

3. Objection. ¶ 3. Que le roy per son Chartre ne poit nosmer le mea- son & inheritance de Sutton destre vn Hospital, car ceo serf a doner nosme dun Hospital in alieno solo.

4. Objection. ¶ 4. Le lieu de chescun corporzation doit estre certaine, car sans lieu certaine ne poit estre aucun incorporation: mes icy le licence at Sutton est a founder Hospital at or in the Charterhouse, issint que il poit founder ceo in tout ou aucun part de mesme le mese, & pur ceo tanque Sutton ad e foundue incertaine la nch aucun certainty del lieu, & per conse- quence nul corporzation. A ceo fuit adde, que lieu per vn nosme conus nest pas sufficient a supporter le nosme dun incorporation mes doit estre describe per metes & bounds, et diuers le prezidents cite & monstre ou le leste des Hospitalis, Priories, &c. fuet issint particularment describe.

5. Objection. ¶ 5. Le Roy per les letters patentz intend a faire incor- porzation maintenaunt, & issint les parolz expressement im- pose, cestassauoir, from henceforth &c. & vnoze nul corpora- tion poit estre tanque Sutton ad nosme vn Maister, et les letters patentz portant date 22. Junij anno 9. & le script de no- mination 30. Octobris anno 9. & issint les lkes patentz repug- nant in eux m^e et voilde.

6. Opinion. ¶ 6. Tanque soit actuel Hospital et poures en ceo, la ne poient estre gouernoz de eux, car gouernours ne doient estre idle ou come cyphers in algorisme, car gouernoz & gouern- ment sont relativa, que sunt simul tempore; & cibien in son ho- lant che in auters instrumens il ad appelle ceo plusoz foiz son intended Hospital.

7. Objection. ¶ 7. A chescun tel corporzation vn foundation est requi- site, & ley nest aucun foundation fait per Sutton: Car prez- mement il contient daller per verba prescripta & in terminis terminantibus

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auer found, creer & estable le dit mense de Chatterhouse du Hospital ac. Et ceo fuit ressemble al cas des Eschamys
Spankealmoyne, dedi, warrantizo, frankemariage que sum
verba legalia & incomparabilis &c. Et divers prestemens furent
monstre aux Justices de creation des Hospitals, Scholes,
ac. In queut les ditz parolz de fundo, crigo, &c. furent vte. 2. de-
uant tel loyall foundation fait per Sutton un estrang ne
puis auer dosc aucun terk ou auc chose aux ditz gouernoz.
3. Dams tel foundation in temps a benier ne seres comus
q serre souder, sur que confusion ensuera.

C 8. Le nomination del Maistre fait per Sutton est
bold pur 2. causes, luns que il fuit nomine delist Maistre
forlez a volunt, ou il doit estre nominate p vie, entant que il
auera frankement in les terres. Auyz la couuent estre al
meines un actuel Hospital founded p Sutton solonq son
licence devant que il puis nominate un Maistre de ceo, car
autrement sera un Mathematicall ou Tropicall Hos-
pital.

C 9. Le dit bargaine & sale fait per Sutton aux ditz
gouernoz fait void pur 3. causes: 1. que les deniers q fuit
le consideration du ceo, fueront pas p lez private persons de
gouernoz a pur ceo le bargain & sale des manoz ac. ne po-
et enure a eux en leur politike capacite: 2. Le Habendum est
aux gouernoz sur trust & confidence, & corps politike ag-
gregate de plusoz ne poit estoier seill de trust ou confidence,
ou al deys dun aut: 3. Pur ces que nul Hospital fuit foun-
due per Sutton solonq son licence; & pur toutes leg autres
objections faitz encounter le foundation & incorporation le
dit bargain & sale fait voide, & per consequence toutes lez
ditz manoz descendue al plaintife come costin et heire al
Sutton.

C 10. Que nul Hospital fait incorporate per les ditz
Letters patents, & pur ceo fuit obiect, que le rooy ne puis incor-
porate eux per le nosme des gouernoz ac. del Hospital,
mes dun Hospital in ley ou dun legall Hospital, come fuit
terme, car les gouernoz ne potent pleade que ilz sont seille
in iure Hospitalis sui, pur ceo que in ley na ne fuit aucun Hos-
pital.

Quel summary report Ieo ay fait de ceuz objections, pur
ceo que Ieo pense euz, ou al meines le greindre part de euz,
ne fueront digne desir moue al Bar, ne remeber al Venche,
& que cest case fuit adioyne in leschequer Chamber per les
Justi-

Le casede Suttons Hospitall.

Justices del banke le roy pluis pur le pon deur del value que
pur le difficultie del ley in le case. Et lencier record, come ap-
piert devant per les exceptions, doit este le case, le quel fuit
ouertant argu in leschequer Chamber per toutes les Justi-
ces denglitez & barons del Eschequer (sauant le chiese Ju-
stice del Banke le Roy que adonques fuit malade) cestassauo-
tre. Sir Robert Houghton, sir Augustine Nicholls, sir John
Dodderidge, sir Humfrey Winch, sir Edward Bromley, sir John
Croke, sir Iames Altham, sir George Snigge, sir Peter Warbur-
ton, sir Laurence Tanfield chiese Baron, & Sir Edward Coke
chiese Justice del banke; & fuit resolute per eux tous in leur
arguments (sauant per Baron Snigge, & Justice Croke) que
judgement sera done enuers le plaintif. Et quia rectum est
Iudex sui & obliqui, un dzoit line fait discouery non seulement
de ceo que est dzoit mes de ceo que est tort & courbe, & le con-
firmation del dzoit & verite est confutation de erroz & fauri-
tie, ieo boille reporcer lessent des realsons & causes affirmant
& confirmant les resolutions des Judges, queux sont de cy
graund authozitie, perspicuitie, & grauitie, que ne besoigne
que les objections aueront aucun particular rys: & vnoz
pur le satisfaction de tous, chescun de eux sera particula-
rement ryside. Et pur ceo que cest case principalment depēd sur
les letters patent, & le melioz exposition del chartre le roy,
est sur le consideration de tout le chartre a expouder le chē
per le chartre mesme verba cartæ regiae equè portant suam expo-
sitionem; & les letters patent le roy in cest case sont visceræ
cause, & expositio qua ex visceribus cause nascitur est aptissima
& fortissima in lege, tous les parts del letters patent fuerōt
considerer, & chescun material part de c explane sonz le boier
& genuine sence, q̄l est le mieux methode, si consideration de
mults autres, pur le pluis clere repoz de c case.

Viscera cause

Le 1. part del
chartre le roy
Respons al 1.
Obiession.

2. choses: 1. Del title del dit act de 9. Februarij anno 9. cestassauo-
tre, An act to confirme & enable the creation and establishment
of an Hospitall and free Grammar Schole, done and enten-
ded to be done by Thomas Sutton Esquire: quel title proue, q̄
nul Hospitall ac. fuit foundue per lact mesme, mes le scope
del act fit a enabler Sutton de erector & establisher un Hos-
pitall ac. & pur ceo le title dit entended to be done and perfor-
med by Thomas Sutton Esquire. Et ceo appiert auxy per di-
uers parts del corps del acte queux tous sont in futuro &
nihil in presenti.

1. Bee

Le case de Suttons Hospital.

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1. Be it therefore enacted, That in the towne of Halingbury &c. there may be builded one meerhouse for abiding of poore people and schollers &c. queux sont parolz de futuro, & nest certaine in quel part del ville le mese sera edifie. 2. And that the same shall and may be called and named the Hospital of King James: Queux parolz sont auxy de futuro: 3. And that the Lord Archbishop of Canterbury &c. shall and may be the governors &c. And that the same Gouernors &c. shall for euer heereafter stand and be incorporated: Queux parolz doient estre intend a prender effect apres le erection del Hospital, & in certaine lieu &c. & assint le construction est in futuro; quel bien appiert per les parolz de futuro ensuant, and may haue perpetuall succession. 5. And may for euer hereafter haue, hold, and enioy Lordships, Manors, &c. without licence of Alienation, or licence of Mortmaine: per que appiert que cest clause nest in effect forsque un licence a doner manors, terres, &c. tenus in capite sans autre licence de Alienation, et auxy sans autre licence de Mortmaine. Mes cest clause fuit superfluous et impertinent si la terre passera per lach mesme, Car doneques nul licence in ceulx cas es fuit requisit: Et s'auant que lach fuit admitt que la fait un corporation, uncozenul terre est done a ceo per ceux parolz de futuro. Auxy, come que les dits terres fueront done a eux, vncoze le roy per ses Lées Patents poiet erect & incorporat un Hospital in le Charterhouse, q fuit purchase apres lach, a laction de trés in le case al barre est pur trespass fait in le Charterhouse. Mes fuit resolute per toutes les Justices & Barons del Escheat (sauant Justice Croke) q lach de 9. Iac. ne incorporat les gouernors &c. forslez in futuro, q ne bñqz prist ne oye poit prender effect, et p consequence nul terre fuit ou puit este done a ceo.

Le 2. branch del recitall est del purchase del Charterhouse Le 2. brâch
del Charre puis lach; le quel come la est rehearse est plus fit a commodi-
ous q Halingbury destre conuert in un Hospital.

In le second part Sutton est un futor et petitioner al Roy pur quatre choses: 1. to giue licence to found, erect, and establish an Hospital house &c. and free Grammer-Schoole &c. at or in the Charterhouse: in que ad este obserue le incertaintie del lute, cestassauoir, at or in the Charterhouse, mes de ceo in apres: 2. to incorporate the Gouernors heereafter named; assint que Sutton mesme nosme les gouernors queux le Roy incorporat: 3. by such name of incorporation

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as is hereafter mentioned to haue capacitie and habilitie &c. per
que appiert auxy q Sutton deuise & pscrite le nosme del in-
corporac. Et p toutz ceux trois clausez appiert q le suit de
Sutton & son expresse consent suit q les gouernoors fit nosm
del dit mese appel le Chfe house. 4. Sutton fuit lutoz that
the gouernors &c. might take in Mortmaine for the better mainte-

Le 3. par tenance of the said Hospital, Free-schole, Preacher, &c. Le 3. pt
del Chartre des Letts Patents conteine grants & actz faitz p le Roy in
La division 2. maners, s. p boy de licence, & p boy de grant: des licen-
del Chartre ces, alcuz sont requis, alcuz abundant & nient requis: & alcunz
requisit pur le sustentation des poures &c. & nemp al essence
del corporazion: & des grauts, alcunz sont in presenti, & alcunz
in futuro; & de chescun de eux alcunz sont de necessitie, &
alcunz explanatorie & nient de necessitie: & ceux que sont de
necessitie, alcunz sont de necessitie al creation de cest corps
politique, & alcunz al continuance & preseruation de ceo. Et
in ceux branches touts leg dits lies patents sont diuide;
queux sera obserue come ils surdont & ouint lieu in m les lies
patents: mes devant touts leg licences & grauts, le roy ppe-
fix bn pamble, s. The king affecting so good a work, of his princ-
ly disposition and care for the furtherance thereof, and that the
same may take the better effect &c. (in q appiert le honour, cha-
rity, & piouys dispositi del roy) giueth licence to Thomas Sutton,
his heires, executors, administrators, and affignes at all times here-
after, at their will and pleasure, to place, erect, found, and establish,
at or in the said house, called the Charterhouse, one Hospital,
house and place of abiding for the finding, sustentation, and
relief of poore, aged, maymed, needy, or impotent people &c.
Also to erect, found, &c. one Free-Schoole for the instruction, teach-
ing, and maintenance of poore children or schollers, &c. and to
place and maintaine a learned Schoolemaster and Vlsherto teach
and instruct the said children in Grammar. And also one learned
& godly Preacher to preach & teach the word of God to all the
said persons, poore people, and children, members and officers at
or in the said house, ceo in le pprimet lieu conteine le fine de
Suttons piette & charitie: Car sapiens incipit a fine, & quod
primum est in intentione ultimum est in executione. Et ceo fuit
graund motiue al Roy de son royll authozitie a doner a
luy meanes, cestauoir, per creation dun capable corps po-
litique per boy de incorporation dauer perpetuall succession
a perfecter & perpetuater cy piouys et charitable ouvrage.

Zerpons al
2. Obiction Et

Le case de Suttons Hospital. 26

Et q̄ le incorporac̄ doit p̄ceder le executiō de cest licence, est e-
vident p̄ les pois & coherence des lēes patent̄s, s. Car cest li-
cence est in futuro, s. al Tho. Sutton ses hēes, executoz̄s, ad-
ministratoz̄s, & assinges at all times hereafter at their will and
pleasure &c. illint q̄ cest future cibier in psongs, hēes, executs,
ac. cōe in chose dēe fait. Mes qnt il viēt al clause de incorpo-
raç̄ il fait ē p̄ verba de presenti tempore: And the said persons and
their successors by the name &c. Wedoe by these presents for euer
hereafter really and fully incorporat &c. p̄q̄ ensuit q̄ le incorpo-
raç̄ est cāt p̄sent, & le execution de ce p̄t del licence future, le in-
corporac̄ doit de fine force p̄cede le execut̄ del licence. Dōqz, in-
tant q̄ le principal foundac̄ del scrupule fuit conceire si ceut
polz, to found, erect, and establish, le boier Etimologie et ge-
nuine sence de eux fuit consider; & ex vi termini fundare, nihil a-
liud est quā fundamentū iacere seu ponere &c. a iecter le foun-
dation dun edifice; & in cest sence le Saint Esperit (que moua
Sutton a cest ouurage de charite) in le Scripture prist
ceo: Et pur ceo in 3. Regū cap. 6. 37. Fundata est domus anno
primo, et anno 11. perfecta fuit domus in omni opere suo: Et 3.
Regū cap. 16. 34. Edificauit in diebus illis Hiel de Bethel Ierico
in Abiram primitiu suo fundauit, & in Segub nouissimo suo po-
suit portas. Par q̄appiert, q̄ a founder est a iecter le foun-
dation dun edifice, q̄ est le primer mechanicall part de architec-
ture. Donques quant le foundation est iect, donques vient
le erection dū edifice, come est dit per le s̄g de Sirach 49. 15.
Exegit nobis muros et erexit domus nostras. Et comment que le
foundation soit bien iect et sur ceo edifice bien erect, bnoze
doit este bien conioyne et establish, & p̄ ceo cest paroll sta-
blish est adde a faire le edifice dauer continuance; 2. Regum
13. Stabiliam thronum eius, i. ieo ferra son trone dauer
perduance & continuance. Illint que a founder, erecter, & stabili-
er sont opera laboris, & labores architector' & ceo appiert per l's
parols del Chē meun, cestassauoir, the King affecting so good
a worke, tam bonum opus: auxy les parols subsequent appro-
uont ceo auxy, cestassauoir, to found, erect, and establish (what?)
an Hospital house: illint que appiert clerement, q̄ lessent de
cest licence est a faire fit & a finisher & furnishier un Hospital
house pur le habita: ion des poures &c, vide apres Mich. 34. &
35. Eliz. le case de l' Hospital de Bridewel pur le exposition de
ceux parols fundo, ergo, et stabilio, que est plusis fort case que
ceo est. Et cest parol place in le p̄m lieu est destre intendue, cōe
ad este dit in le darraine lieu, cestassauoir, a plac poures in ē,
C if a errecter

Eccles. 42.
verse 15.

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a errecter vn free-Schoole pur instruction de youth & pur le
maintenance dun Preacher. Mes comt sera cest saint &
charitable intention (q ceo remainet in succession a tous
tours) pduc au fine & effect : le Chre m demonstre ceo est
rude in effect in cest manner : Est impossible a pnd in suc-
cession a tous tours sans capacite ; & capacite a pnder in suc-
cession ne poit este sans incorporation ; & incorporation ne
poit este creat sans le Roy ; a cest cause le Chartē dit, And for
the maintenance and continuance of the said Hospital &c. And
that the same may take the better effect, That the said persons &c.
be one body corporate and politike to haue perpetuall succession
for euer to endure, We doe by these presents for euer hereafter ful-
ly and really incorporat &c. to haue capacite and abilitie to take
&c. Sauns cest capacite le fine ne poit este effect, car inhab-
bitants dun ville ou auters singular persons (queux nount
capacite a prendre in succession, mes solement a lour singu-
lar heires) ount capacite a prendre incorporation, & apres
lour incorporation ils ount capacite a prendre in succession
ascun terres, tenements, ou hereditaments : vnde sequitur,
que le incorporation que done capacite doit preceder le do-
tation dascun terres &c. Auter licence est fait a cest nouvel
incorporation a prendre in Mortmaine. Cest licence nest de
necessite ou del essence del incorporation ou del cōtinuance de c,
mes bnc est requisit pur le establishmē & maintenāce del fine,
cestassauoir, daū poures sustaine & schollers instruct &c. Car
ceux ne poent este maintaine sauns reuene, & reuenu (come
ad est dit) ils ne poent prendre & reteynre sauns licence iu
Mortmaine, & pur ceo ceux deus, s. incorporation & licence
de Mortmaine couient a preceder dotation. Ceux parols a
founder, errecter, & establisher vn Hospital meason, ne poent
este extend al incorporation, car ceo appent al roy solement,
& ceo le roy fait ; ne al ascun dotation, car bnoze (come ad
este dit) nest ascun capacite : Ergo ceo extend solement al e-
difier & finisher del dit meason dese apt habitation pur
poures &c. Sutton pensant & repensant q̄c cibien le incor-
poration come le licence in Mortmaine fuet in lour severall
degrees requisit a producer son bon & charitable purpose al
effect, au fine que le roy grauntera ceo q̄fuit solement in son
power a grantier, & q̄ il mesme sans le roy ne poit faire, il fuit
lutoz al roy a doner a luy licence a faire ceo q̄ de soy mesme in
respect del ownership del terre il poit (sans le roy) faire, s. a
edifier, finisher, & furnishier le dit mease pur le habitation des
poures

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poures libtē deuant le incorpozé come apperz : mes a doner
ceo in succession &c. Come ad este dit il ne poit, & pur ceo cest
licence fuit soiz explanaotie a declare q̄l Sutton come ow-
ner del meason poit faire , ou une licence de Roy ou Saung le
Roy ; & pur ceo le Roy ne poit countermand cest licence , pur
ceo q̄ nest soiz declaratozie de ceo q̄ Sutton poit faire come
owner del terre sang aucun licence : & ceo appert per le liure
in 3. H. 7. tit. Grant Fitzh. 36. le record de quel ieo ay vewu int
John Buckand Wintner pl in action de fr̄s, & Rich. Fow-
ther Chaplein def. Termino sancti Mich. 2. H. 7. Rotr 135. in
banke le roy & in le report alarge 2. H. 7. 13. ou le case in effect
est, que le roy H. 4. p les L̄es Patents an. 6. regni sui, recitant
q̄ Rob. Ramsey fuit seissie in see dun mese in le parish de S.
Margaret in Londres appell le Sunne &c. nient obstant le-
stat de Mortmain de gratia sua speciali & p vx. l. don licence a
R. Ramsey q̄ il poit don xx. markes de rent issuant del dit
mese cuidā capellano diuina ad altare beatæ Mariz in eccl. sancti
Magni Lond' singulis diebus pro salubri statu pred' Rob. & Iohan.
vx' sūx &c. Habend' & tenend' eidē capellano & successoribus suis
capellanis Cantariæ pred' diuina in eccles. pred' ad altare pred' pro
salubri statu &c. iuxta ordinatiō. pred' Rob. in hac parte faciēd' ce-
lebrat' imperper' &c. & puis le dit Rob. Ramsey p son fait in-
dend triptice 10. Junij 1407. soudu, ordein, & erect le dit Chaü-
terie, & ordein & nosma vn John Medow destit le prim chap-
lein pur fait lz ditz divine seruices, & ouster p m̄ le fait grant
al dit John Medow le prim chaplein 10 marks dannuel rēt
issuant hors del dit mese, a au a luy & ses successors chap-
leins del dit Chaunterie al 4. b̄suall feasts in Londres destre
pate, que clause de distres a luy & a les successors, & ouster or-
dein p m̄ le fait q̄ il m̄ plenka al dit Chaunterie durant son vie,
& apz s̄ deceas q̄ Iohan sa feme plentera a ē durant sa vie,
& apz la deceale p le Patron & Churchwardens del dit es-
glise de S. Magnus & lour successors, & puis de dit John
Medow moyst, & apres divers vacatings le def. Richard
Fobcher fuit plent al dit Chauncerie, q̄ put le dit rent acere
entre in le dit mese le huis esteant ouert, & prist vn emppe del
pl pur distres &c. pur q̄l pris le laction fuit pozt: sur quel mat̄
les parties ouant demurrie in ley : & cest case fuit adioyne in
Leschequer Chamber, & la deuane toutes les Justices Den-
glike diuis obiections fuet faits encont cest licence a grant:
1. pur q̄ils fuet cuidā Capellano, & nosm̄ nul incertaine; et
q̄nt le grant le roy est nonc̄tain ceo est hoid, come si le roy li-

C iii

cence

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cence un a dosi xx. markes de rente cui dam Abbatile grant est void, instant q nest certaine: 2. il nad tel Chapleine tancz R. Ramsey ad nosm & ordenein un; issint q appiert q le grant serc a cest q ne fuit in rerum natura, cõe si le roy done licence a grant al Maiz & Com de Ilington, c est void ou nest asse tel incorpozat comt que aps les inhabitants de Ilington sont incorpozat p le nosm de Maiz & Com, pur c q fuit nul tel in rerum natura al temps de graunt: 3. fuit obiect q le roy nad fait asse incorpozat in cest case, & incorpozat est chose d'ee fait solement p le roy m; ceux pols iuxta ordination per R. Ramsey fiendam ne enhablera le dit Ramsey, a faire incorpozat, car le roy ne poit donec licence a asse de faire incorpozat, mes les dits paroiss don a luy power a faire ordinance, primierment touchant masses & auts diuine services: 2. de qil maner de habite il fit: 3. dañ succession ppetuel, & electiue, plementiue, ou donatiue, q c est lessent de tieis pols & ney de faire corporat, Et le grant le roy ne serc p'implicat, & p les pols a faire incorpozat & auxy a don licence a grant le dit rent, car donqz le grant le roy enurera a 2. intentz: 4. admittant q la fit incorpozat per implicat, vñ le incorpozat doit ee devant l licence, & ity le licence est devant le incorpozat, pur ceo void: 5. le grant doit auer este q le roy done licence facere et erigere Cantariam &c. & ne fuet ascum tieis pols in le Chfe, mes solement licence a granter rent ac, cui dam Capellano &c. 6. le licence est secundu ordination per R. Ramsey fiendam; et per ceo le roy est deceutue, pur ceo q il ne puit auer conusans l quel ordinance ceo sera: 7. fuit obiect q le distres fuit sans garde et void, pur ceo que le licence extend a granter rent solement sans mention dascun distres. Deux obiectz ieo icy collect hors del liure report alarge, 2. H. 7. 13. et le report de Fitz. in 3. H. 7. tit Grant 36. et hors del record mesme.

Quant al primit & 2. obiect fuit resolute q le grant fuit bon, car tous les grants de Chaüteries sont de tel foiz, & cui dam Capellano, & comt q nad tel Chapleine al temps nest a purpose, car si le roy grant al community de Ilington, q ils serc incorpozat dun Maiz & Batis, & qils ount power a estier un, ceo est bone, comt que election de Maiz est future. Il fuit Lecteur Nota diversite inter estate ou interst q nul poit pndre sans plement capacite, & power, libertie, ou franchise, on chose nouellement create q poit pnd effect in futuro. Quant al 3. fuit resolute, qou le roy p son Chfe dit cui dam Capellano, ceo fuit sufficient incorporation; & qnt il dit en le Habendum sibi &

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& successoribus suis, ceo fait sufficient succession : à issint Nota Lecteur cest grant del roy enu à 3. entents, s. a faire incorpozāc, a faire succession, & a grantir rent. Quant al 4. fuit résolue, q ou fuit obiect que le licence de found Chauntery sera primes & de grant apz, ceo ne besoigne, car n̄ materiall q est devant (car le ley construes c a pceder q doit ère primes) mes icy ils sont simul & semel. Quant al 5. que in le licence ne fuet pols de fundare, exigere, facere, fuit résolue q nient obstant c le grant fuit bone. Nota ex hoc Lecteur, q al essence del Chauntery ou au corps politique 2. choses sont solem̄ requisit, s. incorpozāc et don, a nemys a seipols de fundare, erigere, & stablire, ou autiels pols a tiel effect, car nul tiels parols fuet, contene in le dit grant de H. 4. & vn̄ fuit adiudge bon Chauntery loyalit̄ incorporat & foundue : & si tiels pols ount este necessary & requisit in Ley, le iudgement duist auer este done encontier le Chaunterie, pur ceo que ils fuet omitt in le Charter le Roy. Et per ceo appiert que in le case al barre ils fuet explanatorie & de abſundance, q est vn iudgement in le point p le resolution des Justices in Leschequer Chamber. Quant al 6. point fuit résolue que ceux parols secundum ordinationem per R. Ramsey fiendam, important astes certaintie, cestassauoir, a inhabler Ramsey a ordeiner, 1. queux masses et autres diuine seruices sera celebzat, 2. de quel habit ou ordre le Chapleine sera, & 3. le quel il sera elective, presentive, ou donatiue: per force de queux pols Ramsey in le case al barre ordeine ceo deste presentatiue per le Rector del parish de Saint Magnus a tous iours. Quant al sept obiectioun appiert per le report de Fitzherbert vbi supra, que l'opinion de deux chiese Justices Hussey & Brian, & Starkey chiese Baron, & Fairefax Justice fuit, que le distres fuit fauns garrant, mes Townshend Justice semble ceo bone: Mes inspecto recordo fuit adiudge, que le distres fuit bone & bien garrant p le graunt; Car le Chaunterie Preist distreine in let dit meaſon pur le rent, & son distres adiudge loyall & le plaintif barre: & les reasons come sembl a moy fueront, pur ceo q les Chēes le Roy faits pur erection de pious & charitable ouures sera toutz foits pris in le plus benigne & beneficiall sens, et le plus beneficiall rent que home poit granter est rent charge. 2. distresse est necessarie incident all rent, car fauns ceo le Grauntee sera fauns remedie: verba sunt accipienda cum effectu, et parols sont deste prisone oue effect 2. Edwardi tertij 3. Quel case ceo aye cite plus alarge pur ceo que est notable

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notable et pertinent, et pluis fort (come moy see) que le casse in question. 2. Power est done a Sutton to place a Master of the said Hospital. 3. At all times hereafter to place, erect, found, and establish in the said house. &c. one Free-schoole for instructing youth (que bien expound les precedent paroys concernant Lospital, car ceuy paroys extend solement a faire sit a finisher a furnishier un Grammer Schoole deins le dit mese del Chre-houise) and a learned Preacher to teach all in the word of God. 4. Wee by these presents doe ordaine, constitute, limit, and appoint, That the said house and other the premisses, shal from henceforth for euer hereafter be, remaine, and continue, & be conuerted, employed, and vsed for an Hospital and house & place for abiding &c. And shall for euer hereafter be named, incorporated, and called the Hospital of King James, founded in Charterhouse within the Countie of Middlesex, at the humble petition and at the onely costs and charges of Thomas Sutton Esquire, And the same Hospital and Free-scholle by the name of the Hospital of King James &c. Wee doe firmly by these presents, erect, found, establish, and confirme, to haue continuance for euer. Per

cest clause le Roy in presenti done le nosme del Hospital, mez, come appiert devant Sutton ad deuise ceo, et ad sue al Roy a nosmer ceo accordant, et ceo le nosme del incorporation fit, cestassauoir, al humble suit zc. de Thom. Sutton, import, issint, q come est dit in 38.Ed.3.14. & 21. Ed. 4. le nosme de incorporation est come un proper nosme ou nosme de baptisme: in cest case Sutton come Compier done le nosme, et per in le nosm le roy baptise le incorporation; p q appiert q le obiectio q le roy ne poist done nosm al mese q est l inheritance dñi aut, nest das value, car icy Sutton ad consent et assent a ceo, et tout ceo est fait a son humble suit: et cest obiectio tend al dissolution de tous auncient Deanes et Chapters; car al primes come appiert in le 3. part de mes reportes in le case del Deane & Chapter de Norwich tous les possessions fuet al evesque et bincore per son assent le Deane et Chapter fuet incorporat et nosme del Esglise Cathedrall, que adonques appent al Evesque solement, et puis certaine portion fuit assigne al Chapter; issint que le Chapter fuit devant que ils auoyent aucuns possessions, et ceo est le cause que de common droit Levesq est patro des prebends, pur ceo q lour possessions fuet derivee del Evesque, & pur ceo il fuit founder et patro: z que e accord 17.E.3.40.25. Ass. pl' 8.10.E.3.10.50. Ed.3.26.15.H.7. 11. issint q al primes le Deane et Chapter fuet per assent del Evesque

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Euesq; incorporat & nosme del Cathedrall Esglise del Evesque. Et fuit dit q; questions moue in Leschequer soloient este semblable aux spiritis q; poët este raise one mult faculty mes supposse & vñquise oue grand difficulty: mes ceut q;stions fu-
et semble aux ruinoꝝ edifices pluis facilement prostrat que
raise & erect. Et touts les arguments q;ux ount este fait en-
conç cest honorabile ouurage de charitie, sont hatch hors de
mere & ceit & nouvel inuention sans aſc ground del ley; & tiels
q;ux oint aſc colour fuet ousterint mispris. Et q;nt al 4. excep-
tion, q; le lieu de chese corpozat doit este etaine, & Sutton sua
& le roy licence Sutton a found, erecter, &c. vn Hospital at
or in the Charterhouse, q; fuit incertaine, a e le Chēm ex plement
rude, q; le roy p cest clause ordene ac. That the said house and
other the premisses shall from henceforth for euer heereafter be, re-
maine, &c. and shall for euer heereafter be named and called the
Hospital of king James, founded in the Charterhouse: issint que
tout le meaſ & auſz lez pmiss. sont baptise p le roy p le nosme
del Hospital &c. in q; est nul shadow de incertaintie; & pur ceo
Sutton q;nt al licence p le mechanicall part, q; (come ad este
dit) fuit abundant de fitter et finisher tout ou aucun part del
meaſ pur vn Hospital &c. bne tout le mele nosme, & gardes,
orchards, &c. sont nosm p le nosm del Hospital. Et fuit ob-
serue, q; le roy p cest clause non solersit nosme le dit mele desie
Hospital, mes p le nosme del Hospital erect, found, establish,
& firm; issint q; le roy nosme e z raise le mechanicall part al
Sutton a pform. Et de m le importance est lauter obiectio, q;
vn nosme conus nest sufficient a found Hospital, mes doit ee
describe p metes & boſds, cõe in diuz pſidens ad ee bſe; car
appiert in Will'm de Londres case in 2. Ed. 3. 36. Adam port sci-
re fac. q; Will'm de Londres del manoz de C. le def. plead q;
il in est M. del Hospital de S. Bartholomew, & issint port
nosme de dignitie nient nosme iudgement del bſ, a q; le pl reply,
q; ceo q; le def. appel vn Hospital est le manoz de East Smith-
field, & fuit manoz al temps de fine leuie: Et fuit tenus per l'
court que p cest brieſ il doit au le manoz come e que l manoz
fuit al temps del fine leuie; & ou le manoz fuit fait Hospital
puis le fine leuie, per cest fuit il est a defater bſe estate & bſe
nosme, & accordant fuit rule que le brieſe fuit bon. Quel pue
q; manoz (q; import pluis varietie & incertaintie que vn mele
conus per certaine nosme) poit este creat in vn Hospital: Et
in 15. Ass. pl. 8. John de Derbies case, vn manoz fait corps p-
bend, Le 5. clause estoit sur deux branches: 1. for the better del Chr'e.
mainte-

Respons al
4. Obiectio

Le 5. clause
del Chr'e.

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maintenance and continuance of the said Hospitall &c. and that the same may take the better effect, and that the reuenues may be the better gouerned and employed, there shall be 16. gouernours, & nosme 15. de eux per expre^s nosme, and such person as from time to time shall be master to be the first and present gouernours:

2. and the said persons and their successors, by the name of the gouernors of the lands &c. one body corporate & politique, by that name to haue perpetuall succession for euer to endure, Wee doe by these presents for euer hereafter really and fully incorporate: &

les pois de cest clause sont verba operativa. *Et est alzoir,*

que chescun corporatzion ou incorporatzion, ou corps politique & incorpo^rat, que sont tout vn, ou estoit sur vn sole pson come le Roy, Evesque, Parson, &c. ou aggregate de plusors

*come Maistre & Com^m, Deane & Chapter, & ceux sont in le ci-
vile ley appell^o Vniuersitas sive Collegium. Oze est a boyer
queux choses sont del essence dun corporatzion: 1. Loyall*

*authozitie de incorporatzion: & ceo poet este per 4. meanes,
cestassauoir, per le common ley, come le roy mesme ac. per au-
thozitie de plaignant, per Ch^ere le roy (come in cest case) & p pre-
scription. Le 2. q est del essence del incorporatzion sont psons
deste incorpo^rat: & ceo in deux maners, cestassauoir, persons
naturali, ou corps incorpo^rat et politicall: 3. Un nosme per
que ils sont incorpo^rat; come in cest case gouernours of the
lands &c. 4. Dun lieu, car sans lieu nul incorporatzion poit e-
ste fait: icy le lieu est le Charterhouse in le countie de Mid^s.*

*Vide 3.H.6.tit.Det 20.17. Ed.3.59. & 45. Ed.3.17. 5. Per pa-
rols sufficient in ley, mes nemy restraine a alcun certaine,
legall, & prescript forme des parols. Et intant que bon plead-*

*der est lapis lidius le touchstone del boyer sence & science des
common ley, le forme de pleader dun corporatzion per pre-
scription est destre obserue; car in tiel case il couient a prescri-
ver in chescun chose que est del essence del incorporatzion. In*

*le Liure de Entriestit. Quare impedit 1. Le pleading est, quod-
dam Hospital Sancte Marie de Bristow de vno Magistro & con-
uentu a toto tempore &c. incorporat fuerunt per nomen Magistri*

*& conuentus Hospitalis Sancte Marie de Bristow: & la appiere
que la ils purchasont terres & tenements & furent implead s^as
alc^s p^scription per lun ou lauter, pur ceo qnt ils sont incorpo-
rat per p^scription per certaine nosme, donques a impleader
et destre implead, a granter & p^schaser &c. sont incidents a vn
corps incorpo^rat. Mich.15.H.7.Rott' 522. in communi banco,
la le p^scription est custos & vicarij Collegij vicariorum in cho-*

*Verba ope-
rativa.*

*La division
des corpora-
tions.*

*Queux cho-
ses sont del
essence dun
corporation.*

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ro Hereford sunt & a toto tempore &c. fuerunt incorporat per nomen Custodis & Vicar collegij Vicariorū in choro Hereford. et la auxy ils purchasont et sueū implead come incident al incorporation. Liure Dentries tit' ass. fol. 68. magister, fratres, & sorores fraternitatis siue guildæ nouem ordinum sanctorum Angelorum iuxta Brainford post assise : le tenant plead quod in villa de Brainford est quædam fraternitas incorporata infra tempus memoriz de Magistro fratribus & sororibus nouem ordinum Angelorum iuxta Brainford Bridge, absque hoc quod habetur aliqua talis fraternitas. Quel case est report in 22. Ed. 4. 34. ou le tenant al primes plead nul tel corporation, & si trouve ne soit, & male quia deux barres ; et donques si plead le dit plea quod est quædam fraternitas incorporata &c. & vnoze la ils suerent infeoffe per Bocking sur condition et capable de ceo come incident al incorporation : et oue ceo accord Leuesque de Excesters case in le liure de Entries fol. 455. 2. H. 7. 1 7. le cozpozation de Godmanchester 34. H. 6. 2 7. in le case del Hospital de Mycome. Vide 26. H. 8. 1. In 9. Ed. 4. 20. le Master del Hospital de Burton Saint Lazare prestre, quod ipse et omnes predecessores sui magistri Hospitalis predict' a toto tempore &c. nominati & cogniti fuerunt &c. tam per nomen magistri Hospitalis Sancti Lazari de Burton, de ordine sancti Lazari de Ierusalem in Anglia, quā per nomen Magistri de Burton sancti Lazari Ierusalem in Anglia, p q appiert q cest parol incorporo, ouascū deriuant de ceo, nest pas in ley requisit a creater incorporation, mes auters parols equipollents sont sufficient, come icy nominati & cogniti : et oue ces accord 44. ass. pl. 9. in le prior de Plimptons case, et 4. E. 4. 7. in le case del Abbot de Glastenbury ; & in nul de ceut liures ou records fuit aucun mention fait de ceut parols fundo, ergo, &c. ou aucun parols semblables, car come ad este dit ils sont parols declaratorie solement, et l'effect de eux poiet este fait per le owner del tre fauns aucun graunt. Et fuit bien obserue que dauncient temps inhabitançs ou burgesses dun ville ou Burgh furent incorpozat qdit le roy graunt a eux dauer Gildam Mercatoriam in le Registre fol. 219. ou le brieve recite quod cum inter ceteras liberates ciuibus ciuitatis Winton per cartas progenitorum nostrorum quondam regum Angliae, quas per cartam nostram confirmauimus, concessum sit eisdem, quod nullus eoru qui fuerunt infra Gildam mercatoriam placiter extra murum &c. ou guilda signifie contubernium seu fraternitas incorporata ; et sur ceo le lieu de lour conventions & assemblies fuit appelle Guildhall. Et ieo ayte bieu

le

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le Ch^e fait p^{re} le roy H. I. Textoribus Lond. p^{re} q^{ue} il grant a eux que ils aueront Gildam mercatoriam, et confirmation de ces fait per le roy Hen. 2. per queux Chartres ils fueront incorporat. Et ou l'opinion de Fineux in 13. H. 8. fol. 3. b. et de Pistor in 39. H. 6. 13. fuit cite al barre, que vn corporacion aggregate de pluors ne poit este vn corps solement launs teste, ceo fuit ousterment dente; car al primes pluys part des corporations fuet vn corps launs aucun teste per force de ceux parolz Gilda mercatoria. Et q^{ue} vn corporacion poit este aggregate de pluors launs teste, Vide 18. Ed. 2. tit. Annuity 48. 5. Edw. 3. 11. 22. Ass. pl. 67. 29. Ass. pl. 17. 2. H. 6. 9. 18. H. 6. 16. 19. H. 6. 80. 21. E. 4. 55. 56. 7. Ed. 4. 14. 2. Mariae Dyer 100. Et appert p^{re} record^e Paulin⁹ le prim^e Archevesq^z de York, puis que il ad baptise les inhabitants de Notinghamshire in le riuier de Trent, founde vn esglise collegiate in Southwel de prebendaries consecrat al virgine Mary, q^{ue} continue vn corp^z latz teste ielsq^z a cest iour. Vide p^{re} cest pol Guild ou Fraternity in liure de Entries f. 68. 37. E. 3. cap. 5. 15. R. 2. ca. 5. lestatute de 1. E. 6. cap. de Chaunteries. In q^{ue} trois choses fuet obserue, cont prudens antiquitas touts foits compréhend mult matt in vn narr^e roomth: 2. q^{ue} al creac dun incorporat le ley nad restraine luy m^{is} a ase p^{re}script et incópatible polz: 3. q^{ue} q^{ui} vn incorporat est dueint create, touts auts incidents sont tacite annex^e; Et pur direct auth^rity in cest point in 22. E. 4. tit. Graunt 30. est tenus per Brian chiefe Justice et Choke, que corporacion est sufficient launs parols de impleader & destre impleade &c. et pur ceo diuers clauses subsequent in le Chartrre ne sont de necessarie, mes solement declaratorie & bien poient auer este omise; come 1. by the same to have auth^rtie, abilitie, and capacite to purchase, mes nul clause est add q^{ui}ls poient aliener &c. & ne behouigne car incident: 2. to sue and to be sued, implead and be impleaded: 3. to have a seale &c. Ceo est auxy declaratorie, car quant ilz sont incorporat ilz poient faire ou vler q^{ui} seale ilz boillont: 4. restraine eux de aliener ou demiser mes in certaine forme; Ceo est vn ordynance testimoniant le destre le roy, mes ceo nest que precept et ne lia in ley: 5. que les statutours ser^t le corporacion; ceo est bonne clause pur ouster doubts & questions queux poient surder, le number estreant certaine: 6. si les recauenues increase, que eux ser^t employ a increas lez nubet des poures &c. ceo nest q^{ue} explanatorie, come appert in le case de Thetford Schole in le 8. part de mes Reports f. 130. 7. de visit^e p^{re} le gouernours &c. est auxy explanatorie,

Clauses del
Chartrre de-
claratorie
&c.

Cat

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car in cest case les poures que serz resident in le mese de Charterhouse ne serz incorporate, mes certaine persons in queux les possessions sont vestre q̄ ne serz resident la mes sole-
ment daū le gestal gouernant & ordning des poures deins ceo;
issint que cē case est hors des statuts de 2.H.5.c.1. & 14.E. c.5.
car si nul visiter ad este appoint per le Chartre, les gouer-
noz visitez: et les liureg in 8.E.3. 28. & 8.Aff. 29. ne impug-
nount ceo ou est tenus, que si le Hospitall soit laye, le patron
visitera, et si spirituel, leuesque visitera, issint que chescun
Hospitall est visitable; voire est, mes in le case al barre les
poures del Hospitall ne sont incorpozate, et issint nul legall
Hospitall: 8. a faire ordinances: ceo est requisit pur le bone
ord & gouernement des poures &c. mes nemys al essence del
incorpozation: 9. exemption del ordinarie est forisque decla-
ratozie, car esteant lay corporation il ne poet ne doit visiter:
10. le licence a purchaser in Mortmaine est necessarie pur le
maintenance & sustentation des poures &c. car launs reue-
nues ils ne poient biver, et launs licence in Mortmaine ils
ne poient loyaltint purchaser reuenues, & vn̄ ceo nest del es-
sence del corporation, car sans ceo le corporation est perfect,
Issint que y ceo que ad este dit appiert q̄ux choses in genere
sont requisite a vn compleat corps incorpozate, & q̄ux sont
verba operativa in cē case (q̄ux sont necessary dēe con⁹ in chelē
case) in le resolution de q̄ appiert cōe necessarie est que le ley
et experiance soindra oue lour maines ensemble.

Quant al 5. obiectio, que nul incorporation fuit fait main-
tenant, come les letters patents purpozt, ne poet este tan-
que le Maister fuit nominate, & pur ceo le charter repugnant
et voide: A ceo fuit r̄nde que cest obiectio extend al subuersi-
on de grand number des incorpozations; car q̄nt corporac̄
est create per lēs patents, perin les patents power est done
al corps a estier vn Maiz, Alderman ou Bailifus ou Gouer-
noz, ou autiels semble, et vnoze ils sont incorpozate per
mesme les letters patents maintenant: et oue ceo expresse-
ment accord Pl.Com. 59 in le Cookes case, 21.E.4.59. & 3.H.
7.tit Grant 36. vouch a large devant al 1. & 2. obiections. Vide
32.E.3. Aid 39. Vide 13.E.4.8. 16.E.3. tit' Grant 65. et voilez est,
que est maintenant per les letters patents corporation in
Abstracto mes nemys Concreto, tanque le nomination del
Maister. Et vn case adiuge in bank le roy Mich. 34. & 35.EI.
rot 172.corā reg. fuit fortint vrgē: les goūnoz de possessions
reuenues & bieng Hospitalis Ed. regis Anglie porz bill de
debt de 20. £. p̄s Elias Germaine: le def. plead q̄ le roy E.6.

*Respons al
5. obiectio.*

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recitant le care del citie de Londres pur relieve des poures hōes & enfantz concessit Maiori, Ciibus, et Cōmunitati London domū mansionalē voc' Bridewell &c. & la le roy declare s'intent que Bridewell serē foudue, erect, &c. vn Hospitall pur les ditz poures &c. idē rex vt intentio sua meliorem capiat effectū, et au fine q̄ les tēes queux serē grant a eux serē mieus gouern, per easdē literas patentes voluit et ordinavit qd Hosp. pred', cū sic fundat' erect' et stabilit' fuer'. Hosp. E. 6. regis Angl' Christi Bridewel & sc'i Tho. Apost. nominetur & appelletur imperpet' et qd Maior coitas et ciues ciuitat' pred' forent gubernatores &c. & qd iide gubernat' de ceter' essent et forēt vnu corpus corporat' per nomē gubernat' possess. reuention' & bonor' Hosp. Ed. reg. Angl. Christi Bridewel & sc'i Tho. Apost. &c. & plead ouster, qd null' hosp. quale in eisdē lit. patent' mentionat post cōfect' pred' lit. patent. sic fundat' erect' et stabilit' fuit &c. s̄ q̄ le pl̄ demurt; & sur argumēt al bat̄ & al bench fuit adiudige p̄ le pl̄, cat le dit ordināce, que l̄ dit mense serē Hosp. cum sic fundat' &c. fuer̄, est intend solemit del mechanicall pt dun actuel Hospital, s̄, del fitting et finishing del Hospital meason ouē poures &c. & ce Hospital, in intention solemit ē sufficiet a supporz nosm̄ de corporat̄, & les pols de presenti, s̄, qd ijdem gubernat' de cetero essent & forent vnu corpus corporat' per nomē &c. in ley incorporate eux maintenant, & ne targera tanqz soit actuel Hosp. ou tanqz le meason soit fit ou finishe, q̄ est le mechanical pt p̄ vn Hosp. s̄. pur habitaē des poures; q̄ est le priuē chose destē obserue p̄ le dit iudgement. Vide 32. E. 3. tit. Aid. 39. l̄ roy E. 3. nouelint found vn priorie, & grāt al moignes, q̄ lis poiet clier vn prior, & devant q̄ le prior fuit elect nō. fist leas a vn A. si tme de vie, le rem al prior & couēt; & in Scir' fac' v A. si plead q̄ nō. fuit leissie in fee & lessa al A. le rem al prior & couēt q̄ suek nouelint foudue p̄ le roy, & pur ceo q̄ nauet pas vnē vn prior, de droit fuit al roy tanqz, & pria aid ol roy, & laid fuit grāt p̄ agard, & bēte de Procedend' bient, & adonqz A. le def. mīcē q̄ puis laid grāt il ad vn prior fait & ordēt in q̄ le droit demurt, et pria aid del prior, & fuit ouste del aide, p̄c q̄ il auoit aid beuāt: q̄l pue q̄ le rem in tiel case ē bōe. Le 2. chose dē obserue in l̄ dit iudgment in le dit case ol Hospital de Bridewel est, q̄ vn corporat̄ poet este fait hors du au corporat̄, s̄. le maior, com & citizens de Londres sont create in lour politik capacicie goūnoz &c. del Hosp. v Bridewel 9. E. 3. 18. plusors corporatiōs poient estecreat vn hors ol au, cōe l̄ deane & chap̄ v Lincoln sōt vn ioint corporat̄, le deane p̄ luy m̄ ē corporat̄, & chesc de les p̄bendz est corporat̄ a per luy. Et in vn case cy manifest ceo sufficera.

Et

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Et quant al 6. obiection, que tanç un Hospital soit foñdue
nul incorporac̄ poet este, car donq̄s seit idle & mathematicall
goñoz, fuit en due q̄ la fuit un Hospital in potest & Hospital
in exec̄, auxy Hospital in potenc̄ & Hospital act Hospital re &
Hospital noie. Et q̄nt al creation dun incorporac̄, Hospital
potestate, potetitia, seu noie suffit; cōe un poet p̄ lices patēts ēe
goñoz dū armie deuāt q̄ soit armie, Vid' 17.H.6.tit' Protectio
56. Et ē accordoue philosophie & reason, Aristot. l.3. d' généra-
tione dit, q̄ caro gignit carnē, & ē boier ē in potestate mes neiny
actu: et issint un oleau cy tost q̄ ē est hatchee est volatilis à volâ-
do quia habet potestat' volâdi, quanquam act' volandi non haber.
Issint un infat cy tost q̄ il est nee est dit rationalis pur ē q̄ il ad
potestar, coint q̄ il nad & paduenture ne briques aña rationem
actu. Et ceo est auxy proue p̄ anciet records & nē liures auxy,
cōe in le Liure de entries tit. annuity. 32.33. Rex H.5. quandū do-
mū in quod' loco siue solo apud Shene (et abut & boñd le soile)
quā vocari & nuncupari voluit, Domū Iesu de Bethelē de Shene,
duxit ordinand' et fundand' & domū illā quāt' in ipso fuit fūdavit
& erexit (q̄ fuit forsq̄ nominatiue mese, car nul adonq̄ fuit e-
ditte) & idcirco locū et solū pred' de Shene vt primariā fundationē
dedit &c. p̄ que appiert q̄ un boïd lieu ou soile in q̄ un mese est
intend dē edificie poet ēe nosm̄ p̄ le chē l' toy un mese, & cē no-
minatiue mese seit sufficient, cōe la fuit, a suppoz̄ le nosm̄ del
incorporac̄. Auxy appiert p̄ Math. Paris. 64. &c. Polidor' Virgil,
Cronic' Cronicor' &c. le Hospital de S. Johns o Jerusalē in
Anglia, fuit incorporate in an' 14.H.1. & des Tēplers p̄ l nosm̄
de Magister milit' tēpli & confrat. sui in Anglia in an. 24.H.1. & vnc
neq̄ le fabrique del tēple, neq̄ le mese del Hospital, fuit foñ-
due & edificie, sed regnante H. 2. de lun Iordan Biset homo pius et
bene nummatus, et d lauf Heraclius Patriarch o Jerusal suez
foñoz. Vid' Caden Britā.f.311. Quel pue q̄ boïd soile p̄ sup-
poz̄ nosm̄ de corporac̄ poet ēe p̄ chē le toy nosm̄ Hospital ou
tēple, & nē requisite que toutes foiz soit veritie in le nosme del
corporac̄, ou del Hospital, ou dascum aū corps politike. Roy
H.8.an reg. sui 2. solonq̄ le volist del roy H. 7. grāt al disis e-
ueliz, Tho. countee de Arundel &c. John Fineux & Rob. Read
chiefe Justices, lo. Young Maister des Rols &c. qui fuet ex-
ecut del roy H. 7. quand' pecia terræ voc' le Sauoy in l' pishrs de
S. Clemens & S. Mary de Strand ad intētiō qd. ijd' qd Hos-
pital' in & su per pred' pecia terr' voc' le Sauoy erigere, fūdar', et stabi-
lire possint. 4.H.8.l' toy licēe eur quodd' Hospital' de uno magi-
stro et 5.capell.su per pred' pecia terr' voc' le Sauoy fūdar' et Hosp.
cū sic fundat fuerit, seit incorporate p̄ nosm̄ Magistr' et Capella-

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6. Obiectio,

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norū Hospital' H.nuper regis Angliaz 7.de Sauoy, et bñc in veri-
tie ne suis Hospital in tēps le roy H.7. mes in intention soleint,
et bñc le roy in s̄ chē nosme ceo le Hospital del roy H.7. ceo
fuit admit dēe bone nosme de corporazion p toutz ceux q ac-
guont le case inter Mariat & Paschal sur le incorporac del dit
Hospital. Tr. 30.Reg.Et in leschequer ou le case fuit adjuuge,
ou in leschequer Chāber ou ceo depend p bñc de Error. Et pur
ēin 44.E.3.16.Registr. 23. la le coypozac fuit, Prior Hospital sc'i
Iohann' Ierusalē in Anglia : et issint 9.E.4.6.Hospital sc'i Lazari
de Ierusalē in Angl', q suffit p l' nosm de corporac, come in i nē
q fiction, s. q ou S. John (q fuit S. John le Euangelist) ou
Ierusalē fuit de site in Anglia : issint magistri milit' Templi Ie-
rusalē in Anglia : Et in le Register, Prior est fr'es sanctæ Mariae de
monte Carmeli in Anglia : issint ieo ay biew record que Kather-
rine le p̄m s̄ee d H.8. ad licence a found bñ chaüterie, per le
nosm de chaüterie de monte Caluarie extra Algare Lond'. Et ē
grand reason q hospital ac. in expectancie, ou intendencie, ou
nominaç, serf sufficent in supozac nosm de corporac quant l'
corporac m̄ est soleint in abstract et rest soleint in intendencie et
considerac del ley ; car corporazion aggregate de plusors est
inuisible, immortall, et rest soleint in intendencie et considerac
del ley, et p̄ c in 39.H.6.13.14. deane et chapt ne poit au p̄deces-
soz ne successor, 21.E.4.72. et 30.E.3.15.b. ils ne poient comitt
treason, ne eē vtlage, ne excōmenge, car ils nont almes ne
poient appeare in person, mes p attorney : 33. H. 8. tit' Fealtie
Brooke, corporazion aggregate de plusors ne poet faire fealtie,
car corps inuisible ne poet eē in person, ne poit iurer, Pl.Com.
213. & fr' Barkleys case 245. nē subiect al imberilities ou mort
del natural corps et dñz aufz cases, Chose quenē in esse mes
in apparat expectacie, est regard in ley ; cōe euelq q est eslieu
deuant q il soit sacree, enfant in le bētre sa mere deuant s ne-
stre ac. 5.E.2.Br'e 80.8.E.2. Voucher 237.38. Ed.3.30.41.E.3.5.
11.E.3. Quar' impedit 158. Issint p l' nosm de corporac, suffit a
nosm bñ lieu in Angltere p nosm d Ierusalē, mont Calua-
rie, mont Carmel, Bethlehem ac. a fortiori le nosm de bñ spaci-
ous et specious measō, biē et actualint edific, p le nosm d Hos-
pital, ē sufficent, car ē import verite et certaintie : p q appi-
ert q in le case al barf la fuit bñ loyall incorporac des gouer-
noz ac. create et institute p le dit chē le roy, et p consequence
cibñ als pson in Angltere cōe Sutton poet don et grant a eux
Deuat als foudac fait ou dēe fait p Sutton (come fuit imagi-
si duist au fait deuant q ils fuet capable ac. mes ē est clerent

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etude & confute devant, & in veritie hez rectasse, est confutasse.

Quant au 7. obiection, est ascauoire, que en ley sont 2. maners de foundations, l'un fundatio incipiens, lauter fundatio perficiens ; et pur ceo quatenus ad capacitatem & habilitatem, le incorporation est Metaphorice appelle foundation, car c'est le commencement, & un foundation quasi fundamentum capacitatibus, preceding tout. Et pur c'est 21. H.6.4. bte fuit port vs John Arde abbot de S. John Baptist del Colchester: le def. plead, qauant cest p's de memoze foundation fuit fait de in le lieu per nomē Abbatis Eccl. & Monast' de S. John de Colchester &c. ou foundation est prise pur incorporation ; 38.E.3.14; 38.E.3.18. 20.H.6.27. & 18.H.6.16. in le Deane à Cannong de Wimborz case, a dñs aucts litiges ouest accord. Sed quaten ad dotationē le p'st done des revenues est appell le foundac, & cestuy que done c'est le found in ley, car propre fundatio est quasi fundatio, & le p'st done est fundamente dotationis seu collationis, & appellatione fundi edificiū & ager continent ; c'est proue per testam de W. 2.ca.41. Si Abbates, Priors, Custodes Hospitalium, & aliarū domorum religiosarū fundatarū ab ipso rege vel a progenitribus suis alienauer vel de cetero tenem' dominib' ipsis ab ipso vel a proge- nitr' suis collata &c. in q' fuit obsecue q' in respect de tenementis collate ou done p le roy le meason fuit dit dñe fiducie ple roy : sed pluis plenius in le clause ensuant in le dit att. Statuē domus illa a comite, barone, vel ab alijs fundata fuerit, habeat ille a quo &c. tenement' sic alienat' collat' fuer' br'e ad recuperād &c. ou le collac ou done des tenementis est appell le foundac. Et ou le found port le dit bte d' Contra form' collation' le bte de Prec' qd reddat mesug' qd eid' domui collat' fuer'. Vide 9. H.7.26.F.N.B. 211. Ver' N.B. 142.38. Ass'pl' 22. tēt q' don' le p'st bte & le found, quia fundare in cest sensc nihil al' est quā fund' dare ; & ouest accord 14.E.3. tit. Corrodie 5. In dñe de Prohibitiō, ou cōm̄plon est found dun Hospital, le bte cōt appert in le Regist' 41. Dit, Hospitalē sc' t Egidii leprosorū de Burto per antecessor' R. filij I ad sustentation' leprosorū & aliorū pauper' & infirmorū ibm', totū in temporal' et nihil in spiritual' fundar' existit, & ibi sēnable bte out le roy & found, cui hospitale nr'm sc' orū Innocētiū iuxta Lincoln' de fundatione progenitor' nr' orum regū Angl' &c. de tr'is & possess. pro sustentation pauper' & infirmor in eod' Hosp. degentiū doratū existat ; en q' fuit obsecue q' ou le p'st bte dit fundat', ce bte appelé dorat', 39.E.3.17. labbot d' Lira port Scire fac' vs l' deane de Wimborz, ou le deane dit q' il tient d' p' sonage (i. d' l' foundac le roy) & p'st aide d' luy & auoit, & oye vient un bte de Proceden-

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do, & ceo fuit challenge pur ceo que le briefe dit del patronage et nemy del collation, et fuit pris tout vn 33. Ed. 3. A id. 103. le Deane de Stafforuds case , le Deancy est dit destre del foundation, & paulo post de collation le roy, 8.E.3.56. en Strachs case per le foundation la terre est amortise. Vide 4.E. 3. Ass. 177.21.E.3.60.24.E.3.33.34.44.E.3.23.44.E.3.11.2.Ed. 3.28. le Countee de Richmonds case 6.H.4.5.7.E.4.12. Et pur ces fuit resolue q si le roy ad incorporate les poures del dit Hos- pital, Sutton ne besoigne dauer fait aucun instrument co- prehendant aucun foundation, erection, &c. mes son dosi del terre, esteant le primer done, vst fait luy founder, & le verie primer donation est tout le foundation que in ley est requisit; et al erection dun Hospitali &c. nest in ley aucun chose requi- site forsque incorporation & dotation. Et in le Reporo ieo ay omit tous les arguments que fueront faits alarge del vn part & del autre sur vn common ground, ou vn act a vn instant enutera a diuers intents distinct in temps, alcuns teignont q le bargaine & sale amount non solefit a vn dotati- on, mes auxi a vn foundation, et auters totis viribus e con- tra: car appiert a bous oze sauns question, que le prim dotati- on est le foundation. Et vncoze in ceo auxi vn diuersite est necessarie destre bien intendue, cestassauoitre, quant le roy ex- presse les parols, designe le lieu, appoint le number et done, et eux nosme per son chartre, issint que ceo est compleat cor- poration, la le founder ou donoz nad riens a faire mes a fait dotation saus aucun instrument comprehendot ceux parols fundo erigo stabilio &c. ou auters semblable parols; car le common person que est founder in tel case nad riens a faire in le quire de incorporation, mes quant le roy per son charte reserue cibien le nominac des persons come le nosme del in- corporation al common person que sera le founder, la il doit nosm les pries et declare p que nosme ilz sera incorporare, et la plusors foies coment que soit de abundance il vle ceux parols fundo, erigo, &c. ou autiers semblables, et quant le common person ad fait ceo et declare ceo in escript solonque son autoritie, doques ilz sont incorporate p les letters pa- tentes le roy et nemy per le common person, car il nest forsque vn instrument, et le roy fait le corporation in tel case in thi le manner come tout ad este comprehend in les letters pa- tentes mesmes: Car boier est que nul forsque le roy solement poet create ou faire incorporare, come est tenuis in 49.E.3.4.49 ass.8. mes qui per alium facit per scipsum facere videtur. Vid' pur cest

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cest diversitie 38.Ed.3.14.22.Ed.4.tir' Grant 30:2. Hen. 7. 13. et
tir' Grant 36.20.Hen. 7.7: Et quant al 8. obiection encounter
le nomination del maister, fuit resolute que ceo fuit bone; Car
Sutton ad libertie a son volunt et pleasure a nominat lay, et
quāt il est nō iste, il est maist, p force des dits let. pat. & quant
cōe oze il ad este nō iste in & per les let. pat. m̄ al cōmencement:
et lauter part del obiection est respondue devant.

*Respons. al
8. Obiection*

Et quant al obiections encounter le bargaine et sale, fuit
primē resolute launs question, que argēt done per les gou-
noz ou aū de eux come primat persons, est bon considerat a
graunter la fee a eux in lour politique capacite, mes le In-
dēnture imposē que ils paya come gouernoz, & p tel nosme
per Lendenture ils sont acquise. Auty la est xij. b. rent re-
serue al Sutton et ses heires que est bone consideration. 2. Co-
ment q̄ in le Habendum un trust est declare, ceo launs questiō
ne poit faire le bargaine & sale fuit lagement fait a declarer le con-
fidence et trust. Et quant al 3. ceo est clercement respond à re-
solue devant.

*Respons. al
9. Obiection*

Et quant al darraine obiection, cestassauoir, que in plea-
ding ceux gouernoz ne poent pleader que ils fuit seissie in
iure Hospitalis pur ceo que la ne fuit ascun Hospital incor-
porate ne in esse al temps de incorporation, a ceo fuit respōde
& resolute q̄ le pleader serē que ils fuit seissie in lour doff come
de fee in iure incorporationis surz, & issint fuit plead in le dit case
del Cooks de Londres in Plow. Com: vide Fulmerstones case
auxy in Plow: Com: fol 102. vide 7. Edw: 3. le case de Custos al-
taris, il count que il fuit seissie &c. in iure altaris. Et quant aux
presidents que fuit mē, fuit rāide que sont multz clauses in-
sert in Chēes, libien del Roy come deg auters, ex consuetudi-
ne Clericorum, queux ne sont de necessitate legis, mes ascuns
declaratorie & explanatorie, & ascuns prolixie et nugatorie
sed lex multa proficiencia, et perficiencia paucis comprehendit.
Et touts les Justices queux argueront in cest case (sauant
les deux auantdits) concudont encounter le plaintife, et
ils 2. mutata opinione assent auxy al judgement; issint que per
lassent des touts les dits Justices nullo contradicente judg-
ment fuit done encounter le plaintife: Et le Seignior Elles-
mere Seignior Chaunceloz Dengliteroyant tous les ar-
gumentz al barre et al bench concutte auxy in opinion one
les Justices. Et issint cest graund ouvre de charitie ad taſt
de tel charitie que doit este in Judges, que est declare in
les statu-

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lestatut de W.i.ca.vltim', Summa charitas est facere Iusticiā omnibus personis ō tempore quando necesse fuerit. Et est bone rule pur ceuz gouernoz & tousz autels corporations que est ex-
presso in lestatute de Templarijs anno 17.E.2. in ceuz pols, Ita
semper quod pia et celeberrima voluntas donatorum in omnibus
remanet et expletur & perpetuo sanctissime perseueret. Et Sir
Thomas Fleming ch̄tre aprez le 1. tour en que cest case fuit ac-
gue al benche deutens maladiffe, dont il ap̄s morut, il n̄t que
il ne vñques argue le case. Cestly Sir Tho. Fleming fuit primus
Scrieant del ley, et puis Sollicitor general al roigie Clz.
et al Roy que ore est per le spacie de 12.ans, & adobques fuit p-
ficer de este chiese baron del Eschequer puis le mort de Sir
William Periam, & puis aduanice de este chiese Justice dan-
glerc puis le mort de sir John Popham ; tousz queuz itens
il dischARGE one graund iudgement, integritie, & discretion, et
il merit mult bone volunt de tousz que luy scauoit , pur ceo
que il fuit dun sociable et placable nature et disposition.

Quel case ieo ay report le plus alargep ; causes : 1. p le co-
Les causes firmac des incorporationz foundue pouures de pietie & chari-
del report de tie deuaunt ceuz heures : 2. pur le melieur instruction come
cest case a-
large. ceuz que serront foundue en ap̄s serf issint establie que nul
exception poet eē pris a eux : 3. pur le resolution de certaine
opinions ou questions que fueront moue al barre , et quenz
poient au disturbe le quiet de la ley. In largumēt de cest case
mules auters authoritieg fuet cite, g.2.E.3.47.3.Ed.3.83.3.E.
3.144.7.Ed.3.57.8.E.3.5.8.E.3.67.8.E.3.208.18.E.3.1.20.E.3.
Nonabilitie 9.20.E.3.Corne 22.5.21.E.3.35.32.E.3.Aid 55.40:
E.3.28.44.Aff.2.13.R.2.Breue.643.I.1.H.4.12.19.14.H.4.8.3.
H.6.28.7.H.6.13.9.H.6.13.14.16.20.H.6.7.21.H.6.2.12.Ed.4.
17.15.E.4.1.21.E.4.32.55.57.Liure de entries 112.6.H.7.14.16.
H.7.16.11.H.7.9.11.H.7.27.13.H.8.13.14.Hen.8.29.32.H.8.
Brook Corpor' 78.1.Mar Dyer.98.7.Eliz. Dier 81.le case del col-
lege de Graistock, 10. Eliz. Dier le case del Col. de Landebreuie.
Pl.Com.Grēdons case 494.Hill.16.Eliz.rot 495.Sir Francis Fle-
mings case in communi banco.

Les nosmes des gouernoz nominate p Sutton et ex-
presso in le dit ch̄te fuet le tresrēuend pere en Dieu George Ar-
chievesque de Canterbury Thomas seignior Ellesmere Heig-
nior Chaunceloz danglittere, Robert Countee de Halisbu-
ry, John Evesque de Londres, Launcelot Evesque de Eli, Sir Edward Coke, ch̄tre donques chiese Justice del court de common plees & ore sur chiese Justice denglittere, Sir Thomas

Le case de Suttons Hospital.

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mas Foster, vn des Justices del court de common plees, Sir Henry Hobart, donques attorney general del royst et oze chiefe Justice del court de common plees, John Oudall Deane del es-
glise de S. Paule in London, George Mountaine Deane de Westm, Henry Thursby vn des Masters del Chauncery, lef-
fery Nightingale, Richard Sutton, John Lawe, Thomas Browne,
et le master del dit Hospital pur les temps esleant. Et puis
le mort del dit Sir Thomas Foster vn des Justices del court
del common plees (que fuit vn graue & reuerend Judge & de
graund iudgement, constancie, & integritie) Sir James Al-
tham chefe, vn des barons del Eschequier fuit solonque le dit
chefe vnanimi consensu esleiu in son lieu, et le dit master del Ho-
spitall que Sutton ad nominate durante bene placito, nostre
seignior le royst puis le mort de Sutton per ses letters patentes
ad nominate pur terme de son vie,

Trin.

Mariportingtoun Reg. Iac.



Trinit. Reg. Iac.

Mary Portingtons case.

Mary Portington port action de Trespas
vers Robert Rogers et Thomas Bar-
ley quare clausum & domum fregit apud
Thorpe Saluyn in le countie de Worke
20. Junij 7. regis Iacobi, & le nouvel assigne-
ment fuit dun.mese et croft coteinant vn
acre in occupatione Thomæ Barley &c.
Les defendants pleade in batte, que Herceus Sanford a
fuit seise des tenements &c. in fee & eux teigne del roy come
Del honoz de Tickill in socage, & 8. Maij anno 24. reginæ Eliz.
fist son volunt in escript, & per ceo deuila eux al Eliz. San-
ford son puisne file quant el accomplie son age de 18. ans et
a les heires de son corps: 20. Julij anno 24. reginæ Eliz. le dit
Herceus morust le dit Eliz. adonques de 5. ans, et puis 20.
Julij anno 37. reginæ Eliz. el accomplie son age de 18. ans, &
25. Martij anno 38. reginæ Eliz. enter en les tenements &c. et
ent fuit seise en taile, et issint seise prist a baron le dit Ro-
bert Rogers 1. Nouemb. anno 39. Eliz. reginæ, & iustifie &c. Le
pr reply et dit, q̄ le dit Herceus auotet issue Mary son eigne
file, Helen son 2. file, & le dit Eliz. son puisne file, & confesse le
deuile al dit Eliz. Des dits tenements; mes ouster dit, que p
m le volunt pur default del issue del dit Eliz. le rem dez dits
tenements fuit limit al dit Mary ore pt in taile, le rem al
Helen in taile, le rem to his 4.5. & 6. file in taile, le rem a son
nephew John Roades & a les heires males, ou diuers rem ou-
ster intaille, Prouided alwaies that if my said daughters or any
of

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of thē, or any other the person or persons before named, to whom any estate of inheritance in possession or remainder of in or to the said lands tenements and hereditaments with their appurtenances or any of them, or any part or parcell of them or any of them, is limited, devised, or appointed by this my last will and testament, or the heires before mentioned, of them or any of them shall iointly or seuerally by themselues or together with any other person or persons willingly, apparantly, and aduisedly, conclude and agree to or for the dooing or execution of any act or devise whereby or wherewith the said premisses so to them entailed as is aforesaid, or any part or parcell thereof, or any estate or remainder thereof, or of any part thereof before limited or appointed to any person or persons by this my last will and testament, shal or may by any way or meanes be discontinued, alienated, or put away frō such person or persons, and their heires or any of them contrary to my intent and meaning in and by this my last will and testament, otherwise than for the onely iointure or dower of any the wife or wiues of any the person or persons before named for the onely life or liues of such wife or wiues; Or shal willingly and aduisedly commit or do any act or thing whereby the said manors, lands, tenements, and hereditaments, or any part thereof, shal not or may not discend, remaine, or come to such persons, and in such sort and order as I haue before limited and declared by this my last will & testament, otherwise than as before is said. Then I will, limit, and declare, and appoint hereby, that then my said daughter or daughters, or other the person and persons before named and euery of them so concluding and agreeing to or for the doing or execution of any such act or devise as is aforesaid, shal immediatly frō and after such cōcluding and agreeing, loose and forfeit, and be vtterly barred and excluded of and from all and euery such estate, remainder and benefit, as shee or they or any of them shoule, might, or ought iustly to haue, claime, challenge, and demand, of, in, or to so much thereof, as such conclusion or agreement shall extend vnto or cōcerne, in such manner and forme as if she or they, ne any of them, had neuer been named or mentioned of in this my last will and testament for or concerning the same; and that then and frō thenceforth, the estate and estates limited and giuen to her or them, so concluding and agreeing as is aforesaid, shall from and after such conclusion and agreement forthwith vtterly cease and be determined in, for, and touching so much thereof, as such conclusion or agreement shall concerne and extend vnto, as fully to all intents and purposes, as if shee or they so concluding or agreeing as is afore-

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foresaid were dead without heires of their bodies lawfully begotten as is aforesaid, And then I will and further declare and devise, that presently after such conclusion and agreement, such person and persons to whom the estate and remainder doth first stand next belong and appertaine vnto, after such of the said persons having then the actuall possession thereof, which shall so conclude and agree as afore is laid, by force of this my last will & testament shall and may enter into, haue, and enjoy so much of the said lands, tenements and hereditaments with their appurtenances, as such conclusion and agreement shall concerne and extend vnto, of and for such estates and with such remainders ouer, and with such and in such and the same manner, condition, and degree, and vwith such and the like conditions and limitations before knit and annexed vnto the same by this my last will and testament, in such manner to all intents and purposes, as if my said daughters, or other the said persons so concluding & agreeing, were naturally dead without such heires of their bodies lawfully begotten, as is before named, and as though the said estate or remainder were vested in him or them for want of such heires as is aforesaid, any act, thing, or matter before mentioned and declared in and by this my last will & testament to the contrary in any wise notwithstanding. *Et le dit Herceus issint des tenements auandis leislie come p^r auandit morust ent leislie, le dit Eliz. adonques esteant deings age de 18. ans, que accomplit son age de 18. ang 20. Julij anno. 37. reginæ Eliz. à enter in les tenements, et ent fuit leislie in taile le remainder ouster al dit Mary sc. et puis pris a baron le dit Robert Rogers, à puis 13. Aprilis anno 7. regis Iacobi per fait indent le dit Robert & Elizabeth voluntarie, euidenter, & considerate Anglice, willingly, apparantly, and aduisedly, cōcluserunt & agreauerunt que Christopher Bradshawe, & Garuase Roberts, a suster un common recouerie des dits tenements sur bte Dentre in le post &c. ad intentionem ad euacuand' et auferend', Anglice to make voide and put away ab eadem Maria predict' remanere tenementoru predictorum, accordant a quel conclusion & agreement bte de Entre in le post fuit post bers leg dits Robert & Elizabeth des tenements auandies, ilz donques esteant tenants del franktenements des premisses, et sur ces un common recouerie fuit entre d's eux one boucher ouster & iudgement done et executeon entre bers leg dits Robert & Elizabeth, quel recouerie fuit al oeps del dit Robert & Elizabeth, et lour heires; et le p^r dit que per reason del dit conclusion et agreement ad permittendam predictam communem*

munem recuperationem in forma predicta predict Robertus & Eliz. totum statum suum &c. de & in tenementis predict forisfererunt & idem statu suu de & in tenementis illis cum pertinentijs penitus determinauit & vacuu deuenit, p q le plaintif enter put le dit forfeiture come in son remainder ic. sur que le defendant demur in ley. Et cest plea fuit enter Mich. 7. Iacobi Regis in Communi Banco, & ad depend 14. termes, & ad este argue al barre pluis que demie 14. temps, & ore in mesme cestym terme fuit argue per les Judges, & al datreine fuit vnement resolute per tout le Court que Judgement sera done vers le pt; de q ieo boille faire le plus summari Report pur ceo que ieo aye publie multes cases in mes Reports parauant a m leffect: In ceo ieo boille adioindre alcuns authoritez & reasons confirmanc le rule de cest case, & affirmant les resolutions parauant, & referrer le Lecteur, sans repetition, al authoritez & reasons report per cy deuant. Del part del plaintif diuers objections seu potius declamations fueront faitz.

C 1. Que del temps del feasance del act de 13. Ed. 1. de donis conditionalibus telsz al 12. Ed. 4. Talz arums case, la fuit nul opinion que un recovery vers tenant in taile oue boucher ouster, liera lestate taile sur le pittance dun feined recompence, mes in 12. Ed. 4. ceo fuit nouvellement inuenit, & ne buques deuant cest temps imagine p absence des sages del ley in tantz des generations & ages inuite puis le dit act.

C 2. Comment que le domoz ne poit restainer le common recoverie apres que ceo est permis & execute (pur ces que donques le recoverie ou rem est barre ic.) bucoze (come lult agree daul partie) il poit restainer le conclusion & agreement a sufficer ic, & illico a finenter le barre p le recovery & a psteruer & rem ou recoverie.

C 3. Tels recoveries sont p diffis actz de parlement markes & bradus ouz le blemish de fiction & fauritie, come in le Statut de 34. H. 8. c. 20. ils sont title feined & vtrue recoveries, & illico in testatates de 11. H. 7. c. 20. 32. H. 8. c. 31. & 14. Reg. El. c. 8. &c. ils sont nosmes continuo & come p colluctio, & pur i estoit une ley & reason a pudi si le psterne des recoveries & rem encont tels tenued & fust & continous recoveries.

C 4. Que ce opinion q common recoveries ne poit este restainer p condic ou limite fuit nouvel, & de datreine inuenit, & ne buque apre deuant Mr Anthony Mildenmaies case in le 6. part de mes Reports, f. 40. Car ceo fuit admis de restainer in le case de Countee de Arundell, anno 17. Eliz. fol. 342. 343. Ou le dit Countee in le temps le Roigne Mary dona le manoz & Haselber Brian in le Countee de Dorz, p Indent al Tho, iades Countee

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de Northumberland, & a les heires males de son corps, sur condition que si prædictus Comes aut hæredes masculi de corpore suo exentes, inter alia, aliquod recuperare versus eos permitterent vel discontinuarent : Et in argument de Scholasticas case Pasch. 12. Eliz. Plow. Com. 403. le dit point del restraint dun common recouerie ne fuit vnques moue, & pur ceo fuit pense a estorer oue le honoz & grauitie del Court q cest point ad este cy souent foits argue al barre, & pur ceo a ore lez Serjeants disloyent que fuit ripe pur Judgement apres tiel mature deliberation. Et in cest case tous les ditz oblections fueront confute, & per ceo le point in Judgement constime. ¶ Et quant al primer, 2. questions fueront moue et resolve, le p[ri]m, que Judgement done vers ten in taile oue boucher et recompence in value, liera lestate taile nient obstant le dit act de 13. Edw. 1. soit le recouerie sur bone title ou nemy, 2. que le Judgement done in tiel case pur le ten in taile dauer in value lia lestate taile comment que nul recompence soit ewe. Et pur ceo, quant al primer de ceux questions, appiert per nostre lures que lopinion que un recouerie vers tenant in taile oue boucher barera lestate taile, & ne fuit restraine per lestatute de donis condic', ne fait nouvellement inuenit in 12. Ed. 4 mes souent foits affirme pur ley per les plus sages del Ley q vnques fueront, car Sir William Thirning in temps le Roy H. 4. chiefe Justice del banke An. 12. H. 4. 13. b. dit q les plus sages del Ley q vnques fuet (q qnt il auoit le meilleur ley q fuit vnques) fuet in le reigne le Roy Ed. 3. queux auxy fuet pres al feasant del statute. Laylomus doncques a beyer comet la ley fuit tenus in diebus illis in cest point 1 y. Ed. 3. tit. Briefe 324. per recouery in value per tenant in taile lestate taile est barre a il auera Formedon del terre illint recouer in value. Et oue ceo accord 42. Ed. 3. 53. car la est tenus q in aucun case h[er]e au[er] b[ea]t de Formedon de terr q ne fuit vnq[ue]s doi, come si tenemets in taile sont perdus, & le ten in taile recouer au[er] tre in value, lissue auera Formedon des terres recouer in value, & vnoct ceuy tres ne fuet doi. 44. Ed. 3. 21. 22. Octauian Lumbards case, ten in taile grant rent charge a un in considerac q le gratee ayant droit al tre in taile release a lui, & liera les issues in taile, 48. Ed. 3. 11. b. in leffrey Benchers case, recouer in value p ten in taile le taile, & Formedon gisst del tre recouer in value : & oue c accord 1. Ed. 4. f. 5. 5. Ed. 4. 2. b. Et c auxy appiert p leblable cases: car si tenant in taile alien oue gar, & layfa assets a discender, ceo est barre al issue per reason del garantie & assets discend, mes

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mesme que le garf fauns lassets, ne que le garf et assets sans Judgement in Formedon barree la estate taile; car si lissue (fauns Judgement done) alien lassets, son issue recouera la terre in taile, mes apres Judgement done que il serf barre in Formedon, legitimes in taile auxy serf barre: et oue ceo accord^d Temps Ed.1.tit.garr' 89. 34.Ed.1.tit.garr' 88. 11.Ed. 2. tit.garr' 83. 4.E.3.24.Henry Sommers case 3.E.3.14.40.Ed.3. 9.14.Hen.4.39. 24.Hen.8. tit.taile, Brooke 33. 4.Marie, Dyer. 139. Et in le case de common Recouerie la est un Judgement vers le tenaunt in taile, et autre Judgement vers le bouchee dauer in value, et pur ceo ceux resolutions & opinions in ley produceont le Judgement in 12. Ed. 4. que ne suit dascun nouvel invention, mes proue et approuve per le resolution des sages del ley toutz temps puis le dit act tanque al 12. Edw. 4. et les Judges les sages del ley, adonques perceiuent queux contentions et mischieses auoient crept in le quiet de la ley per ceux fettered inheritances, sur consideration del dit act et de former exposition de ceo per les sages del ley tout temps puis le dit act, done Judgement que in tel case lestate taile serf barre. Quant al 2. question in le prier obiectio[n], est digne de considerac^e q[ue] le Judgement done p[er] tenant in taile dauer value, est barre al estate in taile comment que nul recompence soit rendue in value; et ceo appert in Dyer 23. reginae Eliz. 376. tenant in taile suster un common recouerie oue common boucher, & moyust deuant execuⁿtion ewe vers tenant in taile, & lissue in taile enter, le recoueroz poet enter sur luy per reason del recouerie in value: et oue ceo accord^d Shellies case in le 1. part de mes Reports f.106. Et in le Marques de Winchesters case lib.3. fol.3. Si tenu in taile suster common recovery et plus disseise le recouer et moyust, son issue ne serf remis, car lestate taile fait lie per le Judgement d[ict] ouster in value, comit que in verite nul recompence poet este ewe. Et in Manxels case Pl. Co.fo.ultimo, si tenu in taile soit, et estranger port feint Precipe qd reddar vers luy, & il bouchagarf, & le demandant per default del bouchee ou per son confession recouer vers tenant in taile & il ouster in value vers le bouchee, & deuant execution le tenaunt in taile moyust, & le terre descend a son issue, vncoze le demaundant poet enter ou finer execution vers lissue, & lissue ne vnques faulx le recouerie la, pur ceo que il ad ou poet auer assets, car il doit sauver le recouerie, adonques il doit reteynier la terre taile et auer execution del assets auxy sc. & illint cōe la est report
Gij fuit

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fuit pris per le seignior Mountague & autres Justices in le
Starre chamber in un matter la in temps del roy E.6. issint
que ou le act de W.2. dit, quod finis ipso iure sit nullus, nous
poionus dire quod quoad communē recuperationem &c. actus
ipse ipso iure sit nullus. ¶ Quant al 2. objection, est absurd a dire
q̄ le recouſſir n̄ ne poer este prohibit p̄ aucun conditiō ou limi-
tation, & vnoçoze q̄ le conclusion & agreeement a lasser recouery
serē prohibit, & tiel condition a prohibiter un conclusion ou a-
greement sauour dun nouel deuice ou inuenē, car tanq̄ ore
de tardiffe temps nul unques oia dasun condition ou limi-
tation a prohibiter goings about, ou aucun conclusiō, ou agree-
ment, mes sont tout ousterment disconus al ley: & pur ceo
le dit act de W.2. recitant le mischiefe dit, per factum tamē &
feoffamentum eorum quibus ten̄t fuit datū sub conditione exclusi-
fuer' &c. issint que les feasors del dit act voient este taxe de
graund ignorance, & que le dit act ne fuit necessarie si le
going about ou conclusion de aliener puit auer este prohibi-
bite: car donques quant home ad fait done a un & ses heires
de son corps, il puit auer adde un condition, que si le do-
nee in taile al common ley post prolem suscitata ad gone a-
bout ou conclude de alienet, que adonques le donour reen-
te, & issint dauer preserue son possibilite de reuertir, & is-
sint encounter ceo prouision puit auer este fait per title pre-
venting condition, & pur ceo ne fuit aucun necessarie que le dit
act de donis conditionalibus serē fait: et vnoçoze Sir William
Herk chiefe Justice del Common Banke in 9.E.3. fol.22. Dit
que sis fueront sage gents queux fieront cest statute; & que
Sir William mesme fuit al fealaunce del dit statute appiere
in 41.E.3. tir Gar' 16. & in 5.E.3.14. mesme le chiefe Ju-
stice dit, Nous veionus ceux que fieront lestatute; et ou-
ster dit que le roy Edw.1. (que per assent de son common cou-
cell in parliament fist le dit act) fuit le plus sage Roy que
vnq̄s fuit, & le Roy & tout le plaint prohibite factū & feoffamēt
(car cē imaginaç de going about ou concluding ne fuit adon-
ques ne long tēps puis hachee) & issint in tous succeeding
ages latenaç in del ten̄ in taile ad ēe prohibite p̄ condic̄, come
in 33.aff.p.24. Tēps R.2. Richls case Litr.f.162. Tēps H.4. Thir-
ning 21.H.6.33.10.H.7.11.13.H.7.23.21.H.7.11. Et fuit bien
obsue in cē case, ha un estate taile il y ad; mañs dez incidentz
ascens p̄ le comon ley, auts p̄ act d'plaint, & ascens p̄ custode: p̄
le comon ley sont tielz que ne sot restrein p̄ lestatut, & ne poiet ēe
restrein p̄ asc condic̄, cōe dower & tenancie p̄ le curteſie apres
issue,

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issue, sont incident a vn estate taile, et ne poient este restraine per condition Vide 22.E.17. auxy lestate de luy & del sen in taile apres possibilites sont dispunie de wast, issint collaterall gare est barre al estate taile, & common recouerie auxy, et nul de ceux poient este restraine per aucun condition ou limitation : per statute ley, come a faire leases per lestatute de 32. Hen.8.cap.28. & a le leuier fine per lestatute de 4. Hen. 7. cap: 24. & 32. Hen.8. cap. 36. a. barrer issues , et nul de ceux que sont incidents a son estate p act de parliamēt poient este restraine per condition ; car quant home fait done in taile il tacite done ceux incidents a ceo, et pur ceo a restainer eux per condition ou limitation serf repugnant. Car mittomus que home fait done in taile, et ouster grant que il poet faire leases p ang ou bies solonque le dit act , oua leuier fine one proclaim solonqz les acts in tiel case a bark ses issues , puis en tous foits q il ne ferf leases, ou leuier fine , nul boit denier, mes tiel prouiso serf repugnant ; per consequence in lauter case quant tiels incidents sont tacite implie , car expressio eorum que tacite issint nihil operatur : per custome , a graunt terres per copie ac, al volunt le seignior solonque le custome del manoz ac. Et lopinion de Littleton quant al dit case dun common recouerie fuit cite, in son chapter de Conditions fol. 84. apres que il ad dit que feoffee in fee ne poet este restraine de alienation, il adde, Item si tenis sont doneg in le taile sur condition que tenant in taile ne les heires ne alieneront in fee, ne in taile, ne pur autre bie, forisque pur lour bies demesne, tiel condition est bone, et le cause est (que est mult dese obserue) que qant il fist tiel alienation il fait le contrarie al entent le donoz, pur que lestatute de W. 2.cap. 1. fuit fait, per que lestates in taile soient ordenee ; qest tant a dire come sil vst dit contrary al intent del act de W. 2. ou lalentent de donoz deings le puruieu del dit act, et common recouerie nest pas contrarie al dit act ne al entent del donoz deings le puruieu de c: mes lalentent de Littleton est que tenant in taile poet estre restrain de discontinuance ou in fee, ou in taile, on p autre bie, et issint il mi in le pcheine clause ensuant explaine luy mi, s. et qnt il fait tiel discontinuance il fait contrary al intent del donoz. ¶ Et qnt al 3. objection & aspersion dun scandal si common recoueries (qest vn des main pillars quez supozont lestates & inheritances del kingdome) fuit rfidne, q la ne fuit vnoys aucun chose p le prudence de home cy bien deuise, ou cy fairement establee sur ley et reason quel le ingenie et craft

G iij

de

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de ceux que sont subtile & maluise nad pas abuse: et pur ceo appert per le preamble del dit act de 34. Hen. 8. que quant le rooy done terres en taile a ses loyall & loyall seruants & subiects, entendant non solement a preferer & aduaancer le donee mes les heires in sanke de lour corps, al intent que les heires de lour corps auerouint in speciall memoire le profit que ils ount per le service de lour auncestoz, et per ceo ils mesme le mieux encorage a faire semble service a lour souveraigne seignioz le Roy, fuit bien fait pur le parliament a taxer le donees in suffering de faux et feined recouerries a subuerter lentent del bountie & done le Roy per disherisson de lour issues, quia confirmat vsum qui tollit abusum, & vnoce taut fuit le force dun common recoverie in tiel case al common ley deuant le dit act de 34. H. 8. que lestate taile per vn common recovery fuit barre coment que le reuersion fuit al rooy, & rien puit remedier ceo fosque vn act de parliament: et oue ceo accord 33. H. 8. tit. Taile Br. 41. in Plow. Com. 555. Et quant al case sur lestatute de 11. H. 7. fuit responde, que qnt le baron pur advancement de sa femme que competent tointure, & preferment del heires de lour 2. corps engendres, ad cause estate desti fait a luy mesme & la femme en taile et puis le mort del baron, les femmes a disheriter les issues de lour former barons suffer recouerries & conueie la terres al estrangers del sanke le baron tiel recovery fuit digne per le parliament desti note oue le marke desti suffer p couin: & lart del femme, ou quant el est sole ou de luy et son 2. baron, est cy odio⁹ que recovery ewe sur bone title vers eux per couin est fait void per mesme lart, et pur ceo nest desti ressemble al case al barre, & vnoce nul remedie fuit in tiel case sur vn comon recovery tanque le dit act de parliament fuit fait. Illint in les dits acts de 32. H. 8. 3. 14. Eliz. quant common recoverie fuit ewe vers tenant pur vie pur le preiudice de ceux que auoient le inheritance, ceo bien puit este terme continuos & per conclusion: Et vnoce in mesme le case quant tenant pur vie le remainder al A. in taile, le remainder a B. in taile &c. oue diuers rem ouster, & tenant pur vie suffer common recoverie in que il vouch A. & il le common vouchee, ceo liera tous les auters rem, car nul couyn ou collusion poet este suppose quant le procheine in rem in taile que ad le immediate inheritance est vouchee, come fuit adiudge in Jennings case Tr 38. Eliz. rot 2302. quel case, ayant graund affinitie oue le case al barre, ieo ay report procheine apres cest case, Et qnt

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al dit case del Countee de Arundell ann' 17. reg. Eliz. p̄mierement, riens est parle a ceo per aucun que argue in le case, assint que la nest aucun authozitie pur eux queux citont ceo : Auyz in mesme le case vn recouerie est intend desce restrayne, mes nemys recouerie oue boucher &c. come in chescun common recouery la est. Et in diuers acts de parliament common recouerries auoient receue allowance & aduancement : Et pur c̄ lestatute de 7.H.8.cap.1. recite que diuers cibien nobles com̄ auters ont luffre recouerries vers eux de diuers de lour manors &c. pur performance de lour volunts, pur assurance des iointures a lour femez &c. mesme lach in approbation de common recouerries done remedie a tiels recouerries in diuers cases. Et S. Germaine in son p̄mier liure del Doct. & Stu.cap.26.approue common recouerries a lier cibien in conscience come in ley. Et per lestatute de 23. Eliz.cap.4. est puruieu, que pur auoiding del daunger al assurances des terres et pur aduancement de common recouerries, que aucun common recouery ne serf auoid pur aucun want de forme in parols & nient in le matter de substance. Nota Lecteur, Semper in fictione iuris, subsistit æquitas, et contra negantem principia non est disputandum : Et in veritie nul doit este oye a disputer enconter les legali pillars des common assurances des t̄es et inheritances des subiects. Et al parliament tenus in le raigne del iades roigne Eliz. in le grand case inter T. Vernon & sir Edward Herbert (que fuit debate per councell erudit de devant les Seigniorz del parliament) la Hoord vn veterbarister a councell oue Vernon que fuit barē per vn common recouerie) temeratement & oue grand malueillance inuey encont common recouerries nient sachant le reason & foundation de eux, que fuit oue grand grauitie & oue aucun acrimonie reprove per sir James Dyer adonq̄s chiese Justice de cest court, que dit que il ne fuit digne desce del profession del ley que ausast parle encounter common recouerries queux fueront les sinewes des assurances des inheritances, & fosse due sur graud reason & authozitie, sed non omnis capit hoc verbum. Et quant al dit case de Scolastica, ieo respect mult le reportoz & attribuite due honoz & reuerence aux Judges qū arguont in le dit case : mes amicus Plato, amicus Socrates, sed magis amica veritas ; car le resolution in le dit case est foudue sur 2. authozitie in ley, lun in 29. Ass. pl. 17. et lauter F. N.B. fol. 201.c. queux authozitie estant duement consider, ne garraunt my le collection ou conclusion que est fait sur eux
(ar-

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(arguendo in le dit case) mes, a dire le veritie, le contrarie,
Car quant al dit case de 22. Ass. p. 17. est la cite in cest man-
ner, Home seissie des terres in fee deuiseable, eux deuise a vn
pur terme de sa vie, & que il serroit Chapleine (ou le liure a-
large est que le deuise fuit a vn Clerke pur vie, sur condition
que il sera Chaplein et chauntera pur son alme) issint que a-
pres la decease les dits tenements remaineront al commi-
naltie de mesme le ville (s. de Langstone) a trouer vn Chap-
leine pur mesme les tenements, et moyst, & le deuisee esteant
sufficient pur este Chapleine eux tenuist pur 6. ans & ne fuit
Chapleine, et le heire de deuiseor luydoste, & le deuisee porz
Assise, & le heire plead al assise; et tout cest matter fuit troue
per lassise, et les Justices exciteront lassise intant come ils
poient a dire pur le plaintiff, et al daccraine ils disoient que
le pt fuit seissie et disseisie: sur quel case issint cite les Justices
come la est report issint collect, car il sembloit al court la que
le limitation que il sera Chaplein & chauntera pur lui, ne
fuit condition pur le infreinder de que le heire poet enter, car
per ceo le remainder sera defeat ac. In quel case sont 2.
grand misprisions, lun in le citting, lauter in le application
de ceo 2. que le dit deuise fuit al dit Clerke sur expresse pa-
rols de condition que il sera Chapleine, come appiert devant:
lauter in le application, que ceo ne sera pris pur vn condi-
tion, mes per vn limitation, & a cest purpose le case fuit cite:
et sans question ceo couient este ou condition ou limitation,
et si ceo fuit admis deste limitation donques nest possible pur
le plaintiff in lassise a recouer, car donques son estate si fuit
limitation devant le porter del assise fuit actuellement deter-
mine, car tiel est le nature dun limitation a determini lessate
saung entrie, & donques le franktenement in ley fuit best in
le communalte de Langstone, car estranger prendra aduan-
tage dun limitation, et per consequence ne fuit possible que
le plaintiff que ad perde son estate per force dun limitation
recouera in lassise: mes in le liure ceo est pris pur vn condi-
tion, car la Birton dit, que ceux in remainder ne poient enter,
car ceo est condition, et appiert que le heire ne poet enter, vnde
sequitur que le rem ad distroy le condition; car le liure dit,
que le heire ne puit enter et auer la terre solement pur la vie
Del plaintiff. Per que appiert que in tiel case parols de ex-
presse condition (que sont omit in le citting del case) ne sera
prise pur limitation, mes plus tost void per le limitation del
remainder ouster, car quant il ad parols de condition, le
ma-

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manner del deuise est de entendre que leire poe entier cdme est expreslement dit in le liure, & pur ceo ne serf pris le pur vn limitation a doner benefit a cestu in remaingder, & serf daungerous a faire construction encounter expresse parols. Mez si le case vst este come in le dit case de Scolastica est cite, s. que si deuise la terre a vn pur vie & il que serf Chapleme, poe este plus colour a dire que ceo serf limitation per construction, pur ceo que ils ne sont neque parols de expresse condition, ne legall parols de limitation, & pur ceo la peraduenture le ley serf construction de eux issint que ils poient prendre effect, come in le case inter Hamond & Wellocke report per moy in le 3. part de mes Commentaries fol. 20. 21. cest parol (paying) amountera a vn limitation in vn volunt per construction, pur ceo que in ley n'est aucun parol ou de condition ou limitation, & pur ceo in vn volunt seruera cibien pur lun come pur lauter a supplier lenth del deuise, & issint lauthorite del liure in 29. Ass. p. 17. est encounter ceo que fuit cite in Scolasticas case. Et per ceo poies veier (bonne Lecteur) come daungerous est a fonder vn opinion sur aucun Abridgement, & en autre lieu ieo ay obserue: Car Fitzh. in abridg le case de 29. Ass. tit' Ass. 284. abridge ceo sauns aucun parols de expres condition, come ceo est cite in le dit case de Scolastica, mes Brooke tit' Condic' 111. abridge ceo desse sur expresse condition, sed melius & tutius est petere fontes quam sectari riualous. Et quant al dit case in Fitzh. N.B. est cite in le dit case de Scolastica in cest manner, Home deuise terres in Londres a sa feue sur condition que si el marry que les terres remainnera a son fils in tale, & pur default de tiel issint le remainder a les droit heires del donoz in tale, la femme paist baron & el & le baron occupie la terre, cestu in remainder moroz launs heire de son corps, le droit heire del donoz auer especiall brieve de Ex graci querela &c. Issint appiert que cestu in remainder auera aduantage del condition si ceo soit enfreint, mes ceo serf per boy de fuer cest action, & nemy de enter per force de cest condition nient performe, quel brieve appiert in le Register. Et les Justices disoient, que les parols del condition la mentionee ne sont proprement condition mes parols de limitation, issint que le sence est tiel, Home deuise terc a la femme p termes si el cy longement continue sole, & si el marrie le remainder in tale, le remainder a ses droit heire, issint que le mariage est le limitation la que determine lestate, & issint le remainder commence sur lestate sine la, Quel case issint mise per Fitzh.
hoyz.

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hors del brieve originall in le Register fuit tout ousterment misprise in 2. points : 1. pur ceo que le deuise a la femme in le case mise in F. N.B. fuit sur expresse parols de condition, mez inspecto Registro fol. 246. le deuise fuit sur apt parols de limitation, 2. Habendum sibi ad totam vitam suam si ipsa in pura viduitate sua tenuerit (et nemysur expres parolls de condition, come la est cite) ita quod si ipsa alicui maritauerit, vel ad aliquem virum se traxerit in fornicatione, tunc mesuagiu pred' cum pertin' I. & heredibus de corpore suo legitimè procreatis remaneret, & si idem I. sine hærede &c. obierit, tunc mesuagium predictum cum pertinentijs ad rectos hæredes ipsius W. reuerteret. 3. ou Fitzh. dit, que le droit heire ne poit enter, est clere q̄ le droit heire bien puit enter, pur ceo que il ad le reuersion per discent et nemys per voy de remainder. Etieo aye bieue vn Repor in Hill' 3. & 4. Ph. & Ma. que Dyer *Seriant* moua in le common banke, William Butts doctoz de Phislike fuit leisie de diuers mannoz, terres, & tenements in fee, & ayant issue 3. fitz, William, Edmond, & Thomas, per son volunt in escript deuise part de eux a la femme pur sa vie sub conditione quod ipsa educabit pueros testatoris in eruditione & bonis moribus, le remainder al Thomas son fitz in taylor, et le reuersion in fee discente al William son eigne fitz, le condition fuit enfreint, le question fuit si le heire entet pur le condition, ou Thomas entra come pur infreinder dun limitation, ou si le condition soit distroy per le limitation del remainder ouster : Et fuit resolute per sir Robert Brooke chiese Justice, et totam curiam, que clerement ceo nest limitation, car sont expres parols de condition, et lendent del testator fuit que son heire que touz soitz est a prider aduantage dun conditiō entet, & defeate le estate del fee, mes son entent ne accord oue la ley, car il ne poet defeater le estate pur bie sinon que il defeate le remainder, & pur ceo per le limitation del remainder ouster le condition fuit destroye : mes in tel case son intent ne vnuques fuit que cesty in le remainder entera pur le condition infreint. Nota Lecteur, la sont in ley apt & legall parols cibien de limitation come de condition, apt parols de limitation sont quamdui, dummodo, dum, quousque, durante &c. Vide 14. Edw. 2. tit. Grant.92. rent grant hors del manoz de Dale quamdui le grantor de murs la, Vide 7. E. 4. 16. quamdui fuer' amicabilis. 27. H. 8. 29. 3. E. 3. 15. & 3. Ass. p. 9. home lessa terre dummodo le lessee paiera 20. £ 37. H. 6. 27. lease est fait a vn femme dum sola fuerit, 9. Ed. 4. 20. home fait feoffement in fee tanque, i, quousque le feoffoz

ad

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ad pay a luy certaine deniers, 21. Ass. pl. 18. Vide 13. Eliz. Dyer 290. acc'. Pl. Com. 41. 4. 35. Ass. p. 14. lease pur ans si le lessor vi- uera cy longement, 14. H. 8. 13. lessor terres tanque il soit pro- mote a benefice ac. Litt' cap. Condition fo. 90. durante le couer- ture; tous ceulz & mults autres sont parolz de limitation, per force de queux lestage est determin sang entre ou clame. Parols de condition sont Sub conditione, Ita quod, Si conti- gat, Prouiso &c. Vide Litt' cap. Conditions 74. & 75. 3. H. 6. 7. 27. H. 8. 15. Dier 28. H. 8. 13. 4. Marie Dier 139. 15. Eliz. Dier 318. 32. H. 8. Dier 47. mesceux poig ad effect ea intentione, ad soluen- dum, ou autiels semblables, ne font condition in feossement ou grants sinon que soit in case le roy, ou in vn darreine vo- lunt, come fuit resolute Pasch. 18. reginæ Eliz. per toutz les Ju- stices del common banke. Et issint vous mieux entendezes vostre liures in 38. H. 6. 33. in labbesse de Sions case, 31. H. 8. tit' Conditions b. 19. 8. E. 2. tit' Assise 412. 5. E. 2. Br' Condition 264. F. N. B. 131. 41. E. 3. 17. 41. Ass. pl. 3. 35. H. 6. 7. & fo. 57. per Moile, 7. H. 4. 22. sir Simon Beuerleys case, Doctor & Stud. I. 1. cap. 20. 10. E. 3. 44. 32. E. 3. Annuitie 30. 8. H. 6. 23. Pl. Com. in Browning & Beestons case 141. Dier 7. E. 6. 79. 3. E. 6. ibid. 66. Mes in case de graunt executorie (Pro) fait condition, come graunt dun an- nuitie pro consilio impendendo 41. E. 3. 6. 19. 38. H. 6. 27. 9. E. 4. 20. 21. diffusly in chose executed & executorie Dier 23. Eliz. 369. Fuit auxy obserue que in le case de Scolastica, John Clarke que fuit issint suppose destre restraine prmes leute fine, quel fine (pur aucun chose que appiert in le record ou in le case re- port) fuit fine al common ley, & adonques est discontinuance et tort, & pur ceo puis este restraine per condition. Et Hill' 36. reginæ El. ro' 339. in banke le roy in mesme le case de Scola- stica fuit resolute, pur le matter in ley, per Popham chife Ju- stice & 2. autres Justices del banke le roy enconter le former opinion; mes Judgement fuit la done sur vn incurable im- perfection in le verdict.

¶ Quant al 4. objection, que cest opinion que tenaunt in- taile ne poet este restraine a suffer common recovery, fuit no- uel & de darreine intention, appiert per les authorites de- uant ceste & per Litt' auxy que ceo nest nouel mes bien proue per nostre auncient & darreine liures, & est bien dit per vn, quod nouum iudicium non dat ius nouum sed declarat antiquum, quia iudicium est iuris dictum, & per iudicium ius est nouiter reu- latum, quod diu fuit velatum. Et bofer est que la ley aucun foies dormie, & vn Judgement ceo awake, car dormit aliquando lex,

moritur

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moritur nunquam. Et ceo fuit le sole point sur que Judgement fuit done in cest case vers le plaintife. Et fuit obserue q̄ ceut perpetuities fueront nee desouth aucun infortunate constelation, car ils in cy graund nomber de suits concernant eux in tous les courts in Westm̄, ne vñq̄s auoient astū Judgement done pur eux, mes mults Judgements done encounter eux, viz, Hill' 31. Eliz. in leschequer Chamber in Chudleighs case, Mich. 34. & 35. Eliz. Hunt & Capels case in leschequer Chamber, Hill' 37. Eliz. inter Cholmley & Hunt in communi banco, & Hil' 37. Eliz. inter Jermin & Arscot in mesme le court, Hill' 30. regis Eliz. in Corbets case in communi banco, Mich. 3. Iac. regis in bâke le roy sir Anthony Mildemaiés case, & Sondaies case in le court de Gards 8. Iacobi regis ; queux tousz cases ieo ape report, et in tousz queux Judgement fuit done encounter le perpetuitie, et per queux ceut fettered inheritances le franktene-ment des subiects soient mise a libertie solonqz lour origi-
nall freedome.

Mes fuit moue auxy, si admittant que tel conclusion a suffir common recouerie puit este restraine per condition, si conclusion dun feme couert in cest case per fait indent sera forfeiture de son estate. Et fuit object, que quant feme leuie fine ou suffir recouerie oue boucher, le ley que enable luy al principall enable luy a faire declaration del vse de ceo, come est agree in Blith & Colgates case : et issint si enfant, ou homme de non sane memorie, leuie fine a fait Indentures a declarer le vse de ceo, les Indentures ne serē auoid p̄ infancy ou non sane memorie, pur ceo que ils sont enable al principall, & pur ceo ne serē disable pur l'accessio. Et issint fuit resolute in le Court de Gards per Wray & Dyer chiese Justices in case de Hugh Lewing que fuit Ideot, et issint troue per office, et ad leuie vn fine al vn Winne, & declare le vse de ceo per Indentures, que fuit pretend destre al vse del Ideot & ses herites, pur ceo que les Indentures come fuit object fust void, mes non allocatur pur le cause auatdie. Et pur ceo in cest case le conclu-
tion per baron & feme per Indenture a suffir common reco-
uerie fuit infreinder del condic. Mes le chiese Justice teigne, que cest conclusion dun feme couert fuit de nul forze ne aucun cause de forfeiture : et pur ē aucun des maximes del ley sont destre consider, que nul feme couert serē barē per son con-
fession de son inheritance ou franktene-ment mes quant el est examine per due course del ley, 15.E.4.8. 44.E.3.28. Vide 14:
E.4.5. Et nul ad power de examiner feme couert sans briefe,

Vide

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Vide 21. Edw. 3. 43. John de Holboynes case : & ceo est le cause que si baron & femme conust vn Statute ou Recognition, ceo est boid quant al femme , comment que el suruine son baron, come fuit tenus Pascha 17. Elizab. in le Countesse de Lennox case. Il nient si baron & femme couert conust vn fait destre inroll, & ceo est broid, ceo est boid quant al femme couert, Vide 29.H.8. tit. Fais inroll Br. 14. & 7.E.4.5. 16.H.7.5. & 21. Edw.3.43. & le reason est, pur ceo que nul tel brieve est pendant vers le baron & femme sur q la femme poit este per la ley examine. Mes si infant conust vn Statute ou recognition, ceo nest boid, mes boidable per Audita querela durant son minorite ; & le cause del diversite est, pur ceo que le Judge in case de infant poet per inspection conuster son age, mes nemy le quel vn femme soit couert ou non. Ce lusage ad este touts foings sur vn common recouerie vers baron & femme de examiner la femme, & a graunter Deditus potestate a prender sur examination son conuaince, come in case del sine, car la est brieve sur que el poit examine, vide 44. Edward.3. 28. mes common reconerie vers infant comment q il appiert per gardein, ne liera l'infant, car l'enfant nad' tel dispoing power sur la terre come le baron & femme ad, mes est tout ousterment disable per ley a conuey ou transfierre son inheritance ou franktenement aux autres durant son minorite ; & in ceux iours yn commoy recouerie appiert a nous de le common conueyance a assurancie del terres. Mes si femme couert letie sine solement, ceo lyera lui & ses heires si le baron ne enter & auoyde lestate del conusee, pur ces que el fuit examine & ad power sur la terre. Mes le treason que ne poet este sorfeiture ou infreinder del condition in le case al barre est, pur ceo que le conclusion per Lendenture solement & maintenant per le pretence del plaintife fuit determination del estate de Elizabeth, & doncques le recouerie ne fuit dascun effect, pur c que l'estate de Elizabeth fuit determine per le dic conclusion per Indenture devant le tecontry, & nest material le quel il fuit aucun reconerie ou nemy. Car le pleading est que p le Conclusion lestage determine, Il nient que in cest case ne poet este dit, come fuit affirme, que quacum baron & femme suffer common recouerie des escheant enbiable al principal ne sera disable al accessary, car icy cest promiso disable eux a suffer vn recouerie, & encounter Lendenture la fuit plaidet Non est factum, & pur ceo nest plus que baron & femme ont conclude sans aucun recouerie, Mes cest point ne

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fuit pas résolue, pur ceo que Judgement fuit done sur lauter.



Trin.38.Elez.Rot 2302,in le
banke le Roy.

Jennings case, cite in le casé parauant.

I Ater Wiseman & Crowe le case fuit tel : Tho. Wiseman ad issue 2. fitz, Will y la p'me les, & Tho. s' p'son & un file p Dorothy s 2. fitz, & estoant seise des tresmees tenus in forage, p son volunt in escript deuilez eux al dit Dorothy sa femme pur vie, le rem al Tho. Son fits in taile & morust p que la femme fuit seise pur vie, le rem a Tho. le fitz, & le reuerend del see descend al dit Willim, le dit file p'son a baton Jennings, & puis lestat de 14. Reginæ Eliz. c. 8. common recouerie fuit ewe verg le dit Dorothy estoant & pur vif, si que Tho. in rem in taile fuit bouché, & in que Thomas bouchouster le common bouchée sang aucun assent del dit Willam le heire in reuection, le quel recouery fuit aldeeps del dit Thom & les heires, & puis Thom. morust saung issue Jennings in droit la see estoant soer de l'entier sanke a Thom. enter, sur que Willim le plaintif est, sur q Crowe le def. p commandement de Jennings reenter, sur quel reentier l'acte de Tr' s' fuit porze. Et sil le dit common recouery auoit fait le reuerend del dit Willim, lequel obstant le dit act de 14. Reginæ Eliz. fuit le question. Et à ce casse 4. point g' fuit résolue. C. Que al common leg recouery verg fuit pur bis une bouchet sur boier garf & recouera in value liers tressy inde rem, come les liures sont in 19. E. 3. 6. 6. Recouerie in value 20. 2. 3. E. 3. ibid. 13. 44. Ass. p. 35. & 5. E. 4. 2. 6. Le reason est, pur sez que particular estate & lestat in remain der font lorsque un estate, & un garf poit extende al ambi-

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ambideur, & pur ceo le recompence in value enurer a al am-
bideur estates. Et appert per le preamble del act de 32.
Hen. 8.cap.31. que recouerie suster per tenant in real action
vers tenant pur vie per couis & nemy sur boyer garé, que ceo
ou bartera cesty in le remainder ou reuersio, ou al meins tol-
lera eux de lour entre. Mes oze ad este resolute in Pelhams
case in le primer part de mes Reports, que common recouerie
entre vers tenant pur vie seulement est forseiture de son estate,
pur ceo que common recouerie nest a oze forsolz common con-
ueiance ou assurance. Vide 5.Aff. pl. 3. 14.E.3. Rescet 2 45.22.
Aff.31.18.Ed.3.28. ¶ 2. Fuit resolute, que nul act ad este fait
a pzeseruer aucun reueré ou rem expectant sur estate taile;
Car vn estate taile est estate que per possibilite poet endure
a tous lors, & teni in taile ad power a barter cesty in rem
ou reuersio, & pur ceo lestatute de W.2.ca.3. (que fuit fait a
m le parliament que le dit act De donis conditionalibus fuit)
pur le pseruation de cesty in le rem ou reuersio doit Rescet
a eux, & puisde pur eux in ceux parols, Eodem modo si tenens
in dotem, per legem Anglia, vel aliter ad terminum vitæ, vel per
donum, in quo reseruatur reuersio, fecerit defaltam, admittantur
heredes vel illi ad quos spectat reuersio, & comment que lestatute
dit per donum, quel in letter extind al done in taile, vnoze
les Judges, sciant cibien le possibilite del continuance del
estate taile come son power a docker cesty in reuersio ou re-
maind, extind les dits generall parols per construction al e-
state del donee in taile aps possibilite disuse extinct, q in be-
rity nad estate forsolz pur vie, & que nest pas forsolz part del
done, car estate de inheritance fuit done, & oze le donee nad
forsolz estate pur vie; & que ceo accord 20.Ed.3.Rescet 17.39.
Ed.3.8.b.33.Hen.6.22. ¶ le liure in 2.Ed.2.tit Rescet 147. est
malement report, & est desse intend de tenancie in taile a-
pres possibilite & nemy dua estate taile, & pur ceo in 42.Ed.
3. fol. 12. b. le case est notable, Terres fueront render per
fine al Robert & Alice la femme in taile, le remaind al Tho-
mas in taile, sauant le reuersio al donour, Robert morut
fauns issue, Alice la femme fuit implead in Precepte quod red-
dat, que fist Default apres defendant, per que vn Simon le
droit heire del donoz que ad reuersio in fee, surmis q cibien
Rob. come Thom fust morts sans issue, pria desse receive,
le def. counterplead le Recet, pur ceo que Thom que fuit in
le rem in taile avoit issue John que vnoze est in pleine vie,
Et le countell que le def. font 2. objections encontre le Recet,

Hij

primerement

Jennings case.

primermet que lestate del donee ne fuit immediate al estate del Alice, mes non allocatur, car la est dit que fuit adiudge q si terre soit lease pur terme de vie, le remainder a vn autre pur terme de vie, sauant le reversion a le lessor, que cestuy in reversion ad este resceiue nient contristeant l meane remainder : & boyer est que issint fuit adiudge : in 11. Ed. 3. tit. Rescet 118. ou le case fuit, que la fuit tenant pur vie, le reversion al E. pur vie, le reversion del fee a R. tenaunt pur vie fuit impleadin Precepte, & viuant E. R. pria destre resceiue, & la Hill obiect encounter le receipt, que lestatute done q cestuy a q le reversion est immediat apres le mort del tenant pur vie sera resceiue, & nous auomus view que cestuy a que le revert fuit ou il auer mesme estate p vie, auer porz briele de Wast, & ne fuit resceiue a cest briele ; quel case de wast fuit bien agree, & le diuersitie pris inter ceo & le case al barre, pur ceo que in laction de wast, il fuit a le mesme estate, mes icy il est sauver le mesme estate : & 4. Edw. 2. tit. Rescet 160. acc'. Le 2. obiec-
tion in le dit liure de 42. E. 3. fuit, pur ceo que la fuit vn mesme estate taile (que le liure appell fee mediat) inter le tenaunt pur vie & cestuy in le reversion in fee, & ou la est fee mediat, cestuy in reversion per force del dit statute ne sera receiue ; & issint le case la rule que il ne fuit pas receinable, & la diuersitie est pris ou le rent est limit ouster pur vie, la celuy in reversion sera receiue, & la cause est pur ceo que celuy in rem nad plus haut estate que nad le tenant mesme, mes in le case icy il ad vn fee mediat perenter celuy que pria ore, & le tenant que pur a auer este resceiue sil vst venus ; & puis le defendt dit que il naura nul tiel John in rerum natura. Mes Nota Lecteur, si cestuy in reu in fee & cestuy en le meane estate pur vie a mesme l temps prizant destre receiue, le meane estate pur vie in respect de immediatnes & primity sera pferre deuau l resolution in fee, car les yols del estatus esteant general, & admittant heredes vel illi ad quos spectat reuersio, le ley q toutes soitz respect ordre de primity, pferre le petit & pchein estate, soit ceo in rem ou reuer in p vie, deuant le grand & remote estate in fee. Et que c accord 24. E. 3. 32. in Pierce de Grimsteads case. Et lestatut q dona bce de Error & Attaint a cestuy in reu in reu in durant le vie del tenu p vie &c, ne done astun tiel remedy a cestuy in reu in reu expect ac sur estate taile, Vide le Marquis Winchesters case in le 2. part de mes Reports.

Et lestatute de 32. H. 8. c. 31. puruien solement p le pferua d' reuer ou rem expect sur estate pur vie &c, & nemys sur estate taile

taile, a cest effect que toutes recouerries per agreement vers tenant per le curtesie, tenaunt pur vie, in dower, tenant intaile apres possibilite distue extinct, dascun terres, &c. dont le tenant sera seisie come tenant pur vie, tenant per le curtesie, ou tenant intaile apres possibilite distue extinct, sera boid vers ceulz adonques in reuersion &c. il s'ent que per cest statut nul provision fuit fait pur le preseruation del reuersion ou remainder expectant sur estate taile. ¶ 3. Fait resolute, que sundry eausions fueront inuenient hozz del dit statut de 32. Hen. 8. & pur ceo si puis cest act tenant pur vie vst fait lease pur ans, & le lessee pur ans vst fait feoffement in fee, & le feoffee vst suffer common recouerie, in que le tenant pur vie fuit bouché, & in que il bouché ouster le common bouchée, que ceo fuit hozz del puryueu del act de 32. Hen. 8. pur deux causes, 1. pur ceo que le tenant pur vie al temps del recouery vers le feoffee ne fuit seisie pur vie, mes adforisque droit, 2. cestuy in le remainder ou reuersion nauoit adonques, 3. al temps del recouerie le remainder ou reuersion, mes solement droit, car tout fuit deuest per le dit feoffement del lessee pur ans, & il s'ent fuit tenus in le common bank. Trin' 5. Eliz. & 15. Reginz Eliz. que in autiel case ou tenant pur vie in tel common recouerie vient eing come bouchée, que ceo fuit hozz del statut de 32. Hen. 8. come Bendloes seriant ad repoz. Et cest fuit le cause, come auxy appiert per le preamble del dit act de 14. Eliz. del fealaunce de mesme lach, viz. Where diuers persons being seised or that had beene seised &c. for life &c. haue permitted & suffered themselues to bee vouched by other persons by agreement or couin betweehe them &c. to the great preuidice of those to whom the reuersion or remainder thereof hath appertained or ought to appertayne. ¶ 4. fuit resolute que lach de 14. Eliz. ne extend a pleruer asz reuerset ou rem' expectant sur un estate taile ou ten pur vie est implead a ten intaile est bouché, & pur cest title lez partz del act furent consider: 1. le title del act est for auoiding of recouerries suffered by collusion by tenant for life &c. & cest title ne poist este dit per collusio, ou l'en taile est in le recouery, & in fait, ou test in ley come bouchée, car la ley, come incident a s'estate, ad fait la ffre a tous tems a reue subiect a s' pleasure, & il ad droit & power a barrer eux tous, & ius & fraus nunquam cohabitant; & pur ceo le title del act esteant for auoiding of recouerries by collusion &c. ne poist extender al recouerie outes intaile est partie ou priuite. Le 2. pt del act est

Iennings case.

le preamble, & ceo nextend a le case al batz pur quatré causes: 1. Les parols del preamble sont, whereas diuers persons being seised or that hath bin seised of lands &c. as Tenants by the curtelie, Tenants in taile after possibility of issue extint, or otherwise only for terme of life or estates determinable vpon life or liues, issint que lalent del corps del act fuit danyorder recoueries vers tenante pur vie solement, & nemoy quant tenant in taile est partie ou priuie: 2. by agreement and couin betweene them; & (come ad este dit) couin ne poit este quant tenant in taile est partie ou priuie: 3. against the same particular tenant; & in cest case le recouerie vers le particular tenaunt ne barre le reuersion, mes le bouchee del tenant in taile & son bouchee ouster: 4. haue permitted and suffered themselues to bee vouches &c. issint que le bouchee del tenant pur vie, & nemoy le tenant in taile, fuit intend destte prohibite.

Le 3. & principal part del act est le corps del act: 1. That such recouerries against such particular tenants &c. & in le case al batz le recouerie vers tenant pur vie ne barre le reuersion, mes le iudgement done pur le tenant in taile dauet in value, & lya le reuersion, come ad estre dit devant: 2. or against any other with voucher of any such particular tenant; que nextend pas clerement a le case al barre, entant que tenant in taile est bouchee: 3. le prouiso, That all and euerie such recouerries (q' relate al recouerries per couin ac, mention devant in le title, preamble & corps del dit) que nextend on tenant in taile est bouchee, et que tel recouerie liers ceulz que assent de record sont parols affirmatiue & ne demissh le vigor, & force dun common recouerie, in que tenant in taile est bouchee, & in que il bouchee que per le ley ad power sur le terre, come ad este dit devant: & sera graundement mischienous si cest act ne sera issint prise, ou potius si cest act sera expound encounter le brief & l'entention auxy de ceo; car le common assurance est, que tenant in taile de terre oue remainder ou reuersion ouster, bargaine & vendre la terre per fait indent a nroolle a un autre & que le brief Dentre in le post est port & il bouchee testis in taile, & il bouchee ouster, Dieu deuant que lessates des subiects qui dependont sur tiels recouerries sera trahe in question, & bne le barganee in tel case nad forsy estate determinable sur le bie de tenant in taile. Auty le tenant pur vie soit implead in Principe, & fait defaut apres default, & cesthy in remainder in taile est receine, que bouch ouster le commun bouchee, ceo liesta lessate taile, & le remainder ou reuersion auxy: & que c' accord

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cord Knyuetons case 8. Eliz. Dier 152. Vide Owen & Morgans
case. Et iudgement in le case al barre per totam Curiam nullo
contradicente fuit done pur le defendant encounterer le p^r, sic
que le p^r port biefe de Groux, & les Justices del common bank
& barons del Eschequer concuerterent que les Justices del bank
le Roy, que le dit resonante ad barre le iudgement del p^r, neyss^p
insufficient pleading le iudgement fuit reueu.

Mich.



Mich. 10. Iac. Reg.

Lampets case.

Richard Lampet port briefe de Eiectione firme vers Margerie Starkye, a count sur demise fait p Willm Lampet a Eliz. sa femme p lour indentur 18. Junij ann' 8. Iac. dun mese, 24. acrez de terre, 8. acrez de pree, & 20. ac^t de boy^s, oue les appurtenances, in Cave Hambozne in le countie de Glok pur 4. anz &c. a couc dun electur &c. & auerre le vie de Eliz. le def. plead de rien culp : & les Juroz done un speciall verdict qnt al dit mesuage & un dimid acre de tre pcel d^r tenus auat dirz, & qnt al residue ils trouont le def. nient culp. & qnt al dit mesuage & dimid acre ils trouont, q John Shr Lumley, Rich. Lewdenoz, & John Lampton fuet seisie del dit mese & dimid acre in fee, & per lour Indenture 14. Maij anno 35. Eliz. Demisout al John Morrice le puisne le dit mese & dimid acre pur le tme de 5000. ans, per force de q il enter & fuit ent possesse, & 11. Octob. 38. Eliz. fist son testam^t a darrein volunt in escript, & per ceo deuise a John Morrice son pier le dit mese & dimid acre pur le tme de natural vie del dit John Morrice le pier, apuis son decease le rem^r del dit mese & dimid acre al Eliz. le soer del testator & a les h^res del corps del dit Eliz, & fist Jo. Morrice s^r pier^s sole execut^r, & 20. Octob. an' 38. Eliz. morrit d^r dit mese & dimid ac^t possesse, puis qd mort John Morrice le pier assume sur lui le charge del execution del dit testam^t & darrein volunt, & in le dit mesuage & dimid acre de terre ent,
et

Lampets case.

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¶ fuit ent possesse prout lex postularat, & le dit Eliz. prist a baron Willm Taylor, quodque postea, s. 26. Iulij an. 1. Iac. ijdē Will'us Taylor & Eliz. ad speciale instantia præd' Iohan. Morrice sen', per quoddā scriptū suū dederunt, concesserunt, remiserunt, relaxauerunt, sursumreddiderūt, assignauerunt & transposuerunt, Anglice yeelded by dicto Ioh. Morrice sen' totū præd' mesuag. & præd' dimid' acr' pasture cū pertin', vna cū toto recto, tit' interesse, tēpore & termino suis de & in eisdem, Habendū & tenendū totum dictū mesuag. & dimid. acr' pastur. præd' cū pertin. præfat. Ioh. Morrice sen. pro & duran. toto statu, fine, & termino præd. Williel. Taylor & Eliz. pro & duran. residuo dicti termini quiaq; milliū ann. tunc venturorum; Et puis John Morrice le pier 1. Octob. an. 2. Iac. ¶ Indenture demise le dit mese & dimid acr' al dit Margerie Starkey oze def. pur 10. ans, & puis le dit Willm Taylor morust, & le dit Eliz. prist a baron le dit Willm Lampet, & puis 15. Nouemb. anno 7. Iac. John Morrice leigne morust, ap's q̄l morst le dit Will & Eliz. entront in le dit mese & dimid acr' & fuit le demise al p̄ le count mention, p force de que le p̄ enter & fuit possesse tanq; le def. luy eict. Et si super tota materia, le dit Margerie fuit culp ou n̄y, fait le q̄stion. Et ce case fuit souuent foit in seūall tmes argue al barrē, & oze in m̄ testy terme p les Judges: à lessent de toutes lour argumēts fuit, primēmēt, in chelē matter in ley status questionis, t̄, causa dubitationis le cause del doubt ou q̄stion, est primēmēt dēe cōsider; & in ceſt case le cause del doubt est, intant que lentier tme sub modo est in John Morrice le pier, & il s̄ra punie pur wast, & ac̄ de Det ḡst ds luy pur le rent, come fuit resolute p tout le court in ceſt case, vide Weldons case in Pl. Com. 524. acc., si le dit grant ou releas fait al dit John Morrice le pier adōq; esteant possesse del entire tme cōe est auantdit, poit barrer le dit Eliz. pur ceo que el ad forsq; possibility & neq; interest neq; droit in possession, refūc, ou remi; & c̄ fuit le grand q̄stion del cause: mes 2. aufs q̄stions, cōe appiert ap's, fuet moue in le case q̄ux sans difficulty fuet resolute. Cest case del deuise Dun leale pur ans, a vn pur vie, & puis son mort al auf durāt le residue del terme, ad produce septem quæstiones vexatas & spinolas: 1. quaunt home esteant possesse de terre pur ans deuise le vse ou profits del terf qu la terre mesme a vn pur vie, & puis al autre durant le residue del terme, si le deuise Dun chattell puis le mort del primer deuise fuit bone; & adiudic, come appiert in Mannings case in le 8. part de mes Reports, que tel executoz deuise fuit bone; & issint fuit ten⁹ p totam curiā

in

Lampets case.

in le argument de cest case. Le 2. question ad estre, si le ex-
ecutorie deuise puis le mort sc. soit bone quaunt le terme
me same (à lemy luse ou occupation) fuit deuise al p̄m pur
vie sc. à puis al auters; à adiudge que in tiel case auxy le
deuise executozie fuit bone, cōe in le dit case de Manning ap-
piert; à issint fuit resolute in le argument de cest case p toutes
les Justices. Le 3. question ad estre, si le p̄m deuisee, ap̄s
assent fait per le executoz, poit barrer le executozie deuise este-
ant forsqz possiblitie ou nemy; à adiudge q̄ nemy; à issint
fuit bncm̄t agree in larguunt de cest case: Le 4. question ad e-
stre, si assent del executoz al p̄m deuisee enurerat laut, in-
stant q̄ il ad ceo p boy del executozie deuise à nemy per rem; à
adiudge q̄ cy; à issint fuit grant per omnes in larguunt de cest
case. Le 5. question ad estre, quant le deuise est vt supra al ex-
ecutoz pur vie, à puis al aut sc. à le execut ent generalis, ad este
adiudge q̄ il asia ē come execuz, q̄ est son p̄m à generall au-
thoritie, à nemy come legatorie saung clame ou demonstrac
de s election, comēt q̄ le testatoz ne fuit indet al ase; à issint
fuit rule per le court in larguunt de cest case. Le 6. question ad
estre, si tiel executozie interest poet ee grāt al estrang durat le
vie del p̄m deuisee, à adiudge q̄ nemy, cōe appiert in le case
de Carter cite in Fulwoods case in le 4. part de mes Reports f. 66.
oue ceo accord l'opinion de toutes les Justices in largument
de cest case. ¶ Et oze le 7. question est, si tiel possiblitie poet
estre extingush p grant ou releas a cesty in possession. Et fu-
it obiect, q̄ le dit possiblitie ne poet este releas, car instant que
estate durant le vie de home est plus q̄ ase fine pur ang, à q̄
le terre in le case al barre est deuise al John Morice leigne
pur s vie, lentire term est in lux determinable per son mort,
issint q̄ le dit Eliz. nauoit riens forsqz possiblitie q̄ ne poit ee
releas, com in 27.E.3.tit' Executiō 130.3 25. Ass.pl.7. si conusee
dun fitz ou recognizance releas al tre t tout s droit in la ff,
bnc il suet execution: issint si le fitz in le vie son pier releas al
disseizoz son pier, à puis le pier morust, cōe releas ne barrera
le fitz, pur ceo q̄ le fitz in la vie la pier nad forsqz possiblity: z
oue ē accord Litt.cap.Rleases, 11.H.4.33.& 17.E.3.87. 10.E.2.
tit. Confirmation 24. à est mise in 13.E.1.tit. Confirmatio 24. cōe
pur bn maxime, Si home quite clame son droit auant que
le droit lux eschue, le quite clame est nul, Vide 19.H.6.62. Et
oue ceo accord Bracton lib.2. fol. 58.b. Item videndū quādo quis
possit confirmare; & sciendū non priusquā ins ei acciderit. Mes
in le case al barre le releas est fait per le baron del Elizab.
auant

auant le droit ou interest vest in le feme, & come Bracton dit
 priusquam ius ei acciderit. En appiert q̄ ceo nest forsçz possibi-
 lity, pur ceo q̄ ne poet este grant ou assigne al anter, come fuit
 adiudge in Carters case, nient pluis q̄ vn Rectoz q̄ est ap-
 propriat in futuro apres la mort dun incubent, poit ēre de-
 mise in le vie del incubent, pur ceo q̄ nest q̄ possibility, come
 est tenuis in 8. Eliza. Dyer 244. Et le case de Hoe in le 5. part de
 mes Reports fol. 70. 71. fuit fortuné vrge, ou le case fuit, que
 in action de Dette port p̄ Hoe in Bank le Roy, Phelix Mar-
 shall fuit baile pur le def. & puis devant aucun iudgement done,
 Hoe releas al Marshall touts actions, duties, & dds, & puis
 iudgement fuit done vers le def. & sur son default Scire fac.
 issuit vers le dit Phelix que plead le dit geniall release, sur
 que le plainte demurre, & fuit adiudge q̄ cest releas ne barrera
 le pl. pur ceo que devant iudgement eos fait forsçz mere pos-
 sibility, & pur ceo, come le liure dit, ceo ne poit ēre releas. Il-
 lant in le case al barz devant l' mort de John Mortice leign,
 Elizabeth nad forsçz mere possibility, & pur ceo ne poit este
 release. Mes fuit résolue per totam Curiam, que le dit re-
 leas ad barre le dit Elizab. a clamer riens in le dit lease a-
 près le mort del dit John Mortice leigne. Et primerment
 fuit obserue le grand sapience & politie des sages & founders
 de nostre ley, queut ont prouide, que nul possibility, droit,
 title, ne chole in action, sera graunt ou assigne aux straun-
 gers, car estoient encheson de multiplication de contentions
 & suits, de graund oppression del people, & principalment de
 terre tenaunts, & subuersiōn del dme & equali execution de
 Justice. Et stoient que poient este graunt per le act del par-
 ty, issint droit in actis ne sera transfere per act in ley,
 come al Seignior per esheat, ne leignior del villeine auera
 chose in action, & appiert in 22. Ass. pl. 37. &c. Aupy est re-
 solue in le Marques de Winchesters case in le 3. part de mes Re-
 ports fol. 11 que per le general parols dun ato Vattainde de
 reason, per que toutz terres, tenaments, droits, & heredita-
 ments del person attaint fuit done al Roy, il nul droit
 autre in action est done al roy: & tout ceo fuit pur le quiet &
 repos de terre tenaunts. Mes touts droits, titles, & actions
 poient y le prudence & policy del ley estre release al terre te-
 nant, pur q̄ le reason de son repos & quiet, & pur auoidance
 de contentions & suits, & que chescun poet vivre in son voca-
 tion in peace & plentie. Et pur ceo vn droit ou title al frank-
 tencint ou inheritance (car icy nest parle de collaterall pow-
 ers)

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ers) soit ceo in presenti ou futuro poet este release in 5 maners :
1. al tenant de frankement in fait, ou in ley, fauns aucun
privutie ; 2. al cesty in remainder ; 3. a cesty seicle del reuersi-
on, sans aucun privutie, mes estate ne poet este inlarge fauns
privutie ; 4. al cesty que ad droit solement in respect del pri-
utie, come si tenant soit disseille, le lessor poet release ses ser-
vices in respect del privutie & droit, fauns aucun estate ; 5. in re-
spect del privutie solement, sans droit ; come si fait in taile fait
fesement in fee, le donee aps le fesement nad aucun droit, &
vnoce in respect del privutie soleint le donee poet release a luy
le rent & tous services fauant fealtie : issint le def. poet re-
lease al bouchee in respect de privutie soleint : mes nul estate
poet passer per release mes a cesty que ad estate in privutie, &
nemy in respect del droit ou privutie soleint. Vide Litt.c. Relea-
ses 105. 106.a.&b. 19.H.6. 17.23. 14.H.8.8. 7.E.4.13. 14.H.4.
38.1.H.5.Grant 43. 7.E.4.27. 5.E.4.1. 5.E.4.3. 48.E.3.8. 31.E.
3.Gard 116. 13.H.4. Confirmac' 20.20.H.6.29. 8.H.4.5. 7.E.4.
13.9.H.7.25. 18.E.3.12. 5.E.3.36. 7.E.3.46. 22.H.6.12. Litt.
114.b. Issint si le tenant fait feoffement pendant le bte, le re-
lease del dte a luy est bone in respect del privutie. Et si lessor p
ans soit ouste & cesty in le reversion disseille, & le disseiloz fait
leas pur ans, le lessor que fuit ouste poet release al lessor del
disseiloz, & vnoce fault privutie ; mes le disseilee ne poet releas
a luy, pur ceo que il nad frankement, 49.Ed.3.28.vide 19.H.
6. Et le dit release auoit extict le future interest del dit Eli-
zabeth pur diuers causes.

Le 1. reason 1 Pur c que e dun future interest in un chattel, q il coe e po-
et pluis facilent ee create q un frankement, issint i poet pluis fa-
cilent ee determine : Et p c si bte fait leas p ans, & q sur no p-
formante du collatral condic, q ceo fra void, le graciee del reuer-
sion aduantage de e y le common ley ; mes autant est de leaz p
bie si semblable condic, car luy poit pluis facilent ee determine q
laue : & si lessor p 1000. ans soit ouste p le lessor, & il fait leas p
2. ans le lessor p 1000. ans poet release a luy, mes si le lessor
disseille & lessor p bie & fait leas p 1000. ans, le lessor p bie ne
poit release a luy, car un frank est pluis haut q a menq in un
chattel.

Le 2. reason 2 Litt. dit cap. discont. fol. 144. q est un maxime in la ley, q
tert in fee simple ac. poet ee charge p luy boy ou laut : issint fait
dit q fuit maxime in ley, q chese det ou title ou interest in presenti
ou futuro, p le loindre d tous q poiet claim asci etel droit, tis,
ou interest, poet ee barre ou extict ; & pur ceo sur le maxime
que

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que Litt' mitt fuit concilie, q̄ si al cōmon ley le don & donee in
tāle vst iōine in grāt dun rent charge, et paiz le donee vst de-
nue sās iōine & la tēe vst reuert al don, q̄ il tiend ē charge, & vnc
il n'auroit horsq̄ possiblité al tēps del charge fait, mes tous
hux ont estate ou interē in presenti ou futuro iōine in le charge:
a fortiori sil 3 vllont iōine in vn leas p̄ ang, & le donee vst deuy
sās iōine le leas ē bone & le doff. Illint s̄ le 2. mat̄ime, sil in l'
case al baron John Morrice leigne & Eliz. ont iōine in vn fait
d'assigment al aut̄ lang questionē vst ousterant barre l' dit E-
liz, cat nul aut̄ ad interest ou in presenti ou in futuro, mes ceux
qui omonent in le grant: illint q̄ut le baron del Eliz. releasé al
cesty in posses. ambideux cōsent a ē, lnn in releasing, & lauter
in accepting de ceo, & in le case q̄ut ambideux iōine in le grāt,
ceo est le grant de cesty q̄ ad le terme & le releas ou confirmation
del anter. Vide Mayhowes case in le 1. part de mes Reports fol.
146. notable case a cest purpote. Et Paschae 4.E.6. in coī banco,
come le chiefe Justice dist sil ad bieu vn report, fuit tenus per
Mountague, Hales, Molineux & Browne, Justices del common
banke, q̄ si home fuit leas al aut̄ p̄ 21. ans, si le lessee cy longe-
ment vñer, & le lessor & lessee iōine in grant p̄ fait del tme al au-
ter, & puis le lessee moyust deing le tme, le grantee enioie le t
re durant le residu del terme absolutely. Illint in le case
al barre ou lenteret del Jo. Morrice leigne fuit determinable
q̄ son mort, oze cē releas ad fait s̄ intetest absolute ducat tout
de residu del terme. Et il cesty q̄ vse ap̄s lessat de 1.R.3. & de-
uant lessat de 27. H.8. ad lessire le dilleloj de les lessées, oze le
vse ē suspend & depend in possiblité dēe tenue per lentes des
lessées, & vns sil fait lessement in fee ceo est bone & litera, in re-
spect q̄ le ley ad consideration de cest possiblité del vse,

3. Quādo diuersi desideratur actus ad aliquē stat' perficiēd', plus
respiciat lex actū originalē, q̄nt al perfection dum estate ou inte-
test dīis act̄s ou choses sont requisite, le ley ad pluis regard
al original act, quia cuiusq; rei potissima pars est principiū, cat ē
est le fundamental pt sur q̄ tous les aut̄s sont foudue. In ce
case al baron sot 3. choses requisite al p̄fection del inest q̄ Eliz.
deuile (in q̄ est include le mort del deuile) & ceo est le funda-
mental part, lassent del executor, que auxy appiert apres
fuit done in case, et le mort del p̄mier deuile. Et pur ceo
cest case poec ap̄tient este ressemble al case de dowter, quant
home lessire de terre in fee ou les tāles genial p̄sist feme, al per-
fection de dowter 3. choses sont requisite, loyal matrimonij, &
mort del baron, cat nient obstat q̄ son baron est lessire in fee &

Le 3. reason

Lampets case.

le mariage ē loyal, vñc ei nad foſſez poſſibilitie de dower tanq; le mort de ſon baron, in m l' maſſ com Eliz. nad foſſez poſſibilitie tanq; le mort del p̄ſon deuilee: & pur c in 6. Edw. 2. tit. Dower 45. & 19. E. 2. tit. Dower 165. ou eſt tenus, que in b̄e de Dower poſt p le baron & fēe, fine leuie p le baron & fēe n'eſt pas baron, & le reaſon la rendue eſt, pur c que deuāt le mort d̄l baron la feme nad droit ne action, & pur ceo la p le rule d̄l court iſſue fuit p̄ſie que la feme al tēps del fine leuie nauoit riens foſſez que come feme: & l'opinion de Plowden in Stowels caſe 373. eſt come enſuifit, Nota Leceut que in mon opinion ſi baron leuie fine oue p̄ſclaim & s. ang pâſſe puis les p̄clamatiōs, la feme ne ſerf ly al 5. ans puis le mort del baron, mes eſt alarge et nient touche per le puruieu del act de 4. Hen. 7. car le puruien fuit enuers ceur que ont droit al temps del fine leuie, ou ont future droit toz fuit fait deuaunt le fine ou per le fine &c. mes icy in caſe de dower le title eſt accrue tout puis le fines. per la mort del baron, car tanq; le mort nul title fuit conſummate, & leg auters 2. pointz, s. intermarriage & ſeſſion del baron, ne ſont dascum moment ſang le tierce, iſſint q tous les 3. pointz ne ſont q vu cause puis la fine. Mes a celi iour les ditz liures de 6. & 19. E. 2. ne ſont tenus p ley: car ore nul question eſt fait, mes q ſi baron & feme leuie fine, la feme eſt baron de ſon dower pur 2. reaſons: 1. pur c que le intermarriage & ſeſſion ſont le fundamental cauſes del dower, & le mort del baron foſſez come exēcution de c: 2. tous ceur que ont estate, ou title, ou claime ioiné in laſſurance, & pur c in tel caſe ſi le baron & fēe ouint grant rent p fine hoſz del terre, ou ont fait leas pur ang rend rent al baron & ſez heſtres, & puiz la feme recouer dower, el tiendz e charge oue le rent & oue le fine ſolonque le maraſſ q Litt. mitt deuāt, & l'opinion de Plo. auantdit n'eſt pas tenz pur ley cōe appiert in 6. E. 6. Dier 72. & in Dāports caſe in 5. El. 224. Dier, appiert q fuit adiudge al contrary in 4. H. 8. & ore cōmon exēpience ſang contradicte eſt encoſt c, & Litt. cap. Conditiōn fo. 83. tient q ſi leſſee ſur condition p̄lit fēe, le ſeffoz poet ent pur le condiſ enſtreint, & le reaſon eſt pur c que le ley ad principal regard al original & fundamental cauſe, & vñc poet eſt dit q le title d dower n'eſt conſummate tanq; le mort d̄l baron, & que peraduenture la feme deuile devant le baron. Iſſint in le caſe al barre le deuile & aſſent del executor ſont les original & fundamental cauſes del interest del Eliz. & le mort del John Mortice leſſe n'eſt foſſez meane a producer ceo in poſſes-

possession, mes ceo done riens mes tout le interest accrue
per le deuise, & est execute per lassent del executoz, & par
ceo cibien come in le cas de dower ceo poist este release. Et
Sir Anthony Fitz. in son Na. B. fol. 98. tient, que si home leuy
fine del terre in auncient demesne al common ley a vn aut,
ore le seignior in auncient demesne auera brieze de Disceit
vers cesty que leuie le fine & cesty que est tenaunt, & per ceo il
anient le fine, & le conuloz serre restitué a son possession &
title que il auera done per la fine, & oue ceo accord 21. Edw.
3.20.b. & 7. Henr. 4. 44. encounter vn opinion obiter in 17.
Edw. 3.31. Mes si le conuloz apres le fine release al conulee
in possession esteant per son fait, ou confirme son estate p
son fait in la terre donques l'opinion del Fitzh. est, que le co-
nusee reteinera & auera la terre nient obstant que la fine soit
anient, par ceo que cest releas ou confirmation fait a luy este-
ant in possession fait son estate firmie & droiturell vers cesty &
les heires que release ou confirme : quel opinion fuit affirme
per bone ley per tout le court in cest case, & vnoce apres le fine
leuie le conuloz nauoit aucun droit in le terre, mes solement
possibility dauer la terre aref apres la fine anient per brieze
de Disceit destre pozt per le seignior de que la terre est tenus.
Et Warburton Justice cite Grants case adiudge in cest court
Hill 29. El. rot' 824. ou le case fuit, q William Graunt seisie d
fre in fee tenus in socage per s volunt in escript deuise la fre
al John Grant fitz de son frer qnt il vint al age de 25. ans,
a auer & tener a luy & a les heires de s corps & morast ayant
issue Christian son file & hre, q espouse William Marsh, q ad
issue John, & le dit John Grant aps lage de 21. ans a deuise
s age de 25. in anno 37. H.8. leuie vn fine oue proclamé, & apres
il attain a son age de 25. ans, & ad issue Margaret & morast,
si lestat taile in futuro & contingency al temps q fine leuie fuit
barre ou neiny, fuit le qstion, & fuit resolute, q lestate taile fuit
barre, & vnoce le conuloz nauoit forlez mere possibility dauer
estate taile al temps del fine leuie, & i force del parols de le-
statute de 32. H.8.c.36. All fines leuied by proclamatiōs &c. of
any manors, lands, &c. before the time of the same fine leuied in
any wise intailed to the person or persons so leuying the same fine,
or to any of his or their ancestors &c. a comt q le dit John Grāt
ne fuit seisie per force del tayle al temps del fine leuie, vnu-
core per reason de ceur parols (before the fine leuied in any
wise intailed) estate taile in futuro est comprehend; & tout cest p
force del dit statut, car partes finis nihil habuerunt : mes nul

Lampts case.

Judgement fuit enter. Et fuit resolue, que vn future droit ou possibility que poit este release, doit auer foundacē & original inception cōsē auantdir, issint couient ē necessary a commō possibility q̄ in Cholmleys case in le 2. part de mes Reports fo. 51. ē appell potentia propinqua, & possibility q̄ depend sur l' moxt del home ad vn necessary & commō intendemēt, s. necessary in respect que tous les issues de Adam doient morir, statut. est hominibū semel mori, & common, q̄ le moxt poit happer a tel temps q̄ le contingency poit prendre effect, come in 15. H. 7. 10. si terre soit done al maried home & maried femme & a les heires de lour 2. corps ingēdres, cest bone estate in taile, car est de necessity q̄ moxt ensuera, & ē common possibility q̄ lun deuief deuant lauter, issint q̄ mariage poit ensuer: mes in mesme le case ne sera possibility sur possibility; & pur ē si terre soit done a vn home & 2. fenes, la le ley ne intendēt q̄ primement il marieē lun, & puis cesty que il marieē deuief, & que il espouseſ lauter, & pur ceo in tel case ils sount seuerall inheritances al commencement, come si tē soit done a 2. barons & lour fenes & a les heires de lour corps ingēdres, in cest case le ley ne expectera second mariage, mes ils in cest case aueront ioint estates pur vie, & lun baron & femme auera lun moity in taile in common due lauter baron & femme del auer moity, & issint seuerall inheritances; & due ceo accord 24. E. 3. 29. car autrement sera possibility sur possibility: si home done terre al baron & femme (ore est apparant possibility q̄ ils aueront issue) & puis ils sont diuorce causa præcontract. issint que le possibility est dissolute, le ley ne vnques expectera 2. mariage, car per le diuorce ils nouent forsque estate de franktenemēt, & due ē accord 4. H. 7. 16. & 17. fēe poit enfeſſe vn maried hōe causa matrimonij prælocuti, car ē de necessity q̄ moxt insuet, & ē common possibility q̄ le fēe d feoffee deuief deuant le lessē, issint in le cōmō case de leas p̄ vie l' reñ al dēt hēs de J. S. adonq̄s in vie, le remī ē bone p̄ le necessary & common intendēt. Mes le case al barf ē plus fort q̄ ascū des auts causes, car ē de necessity q̄ John Moxrice l' pier deuief, & est plus q̄ common intendēt q̄ il deuief deins 5000. ang, car p̄ le ciusle ley longissimū vitæ homin' tēpus est cent' ann'. Et illē appiert q̄ in nē ley la est ius proprietar', possēſſ. & possibil'.

Et q̄nt al cases q̄ ont este vrge p̄ les Serieants del autre pt: 1. Quant al releas del conusee in 27. E. 3. & 25. Ass. fuit resolue, q̄ les liures fuet bone ley, car la le corps est le detter, & nē la ff meſ in respect del corps, & la tēre nest charge due l' det

Lampets case.

51

Dettanque execution sue : & que ceo accord Pl.Co.f.72. in sir Tho. Popes case, & pur cest release fait p le conseil de tout le droit in la frere ne barrera luy de son execution. Et fuit agree, q le releas del friz al disseislorz de son pier in le vie de son pier est ousterme void, p ceo q le friz nad aucun droit, ne foundation ou original incep dascun droit, in la vie s pier. Et le rule mise in 13. E. I. & in Bracton est dese agree p bone ley, si soit bien intend, s. q cest release ad droit, ou foundation ou originall inception dun droit. Et qnt al case de Hoe, cest fuit auxy resolue deste bone ley, car la le chose q sera release fuit tout oustermet incertaine al temps del release fait ; car cest q deueigne baile in banke le roy nest lie in aucun certaine sume, ne aucun certaintie de cappiert tanz judgement done vers le def. & pur ceo p le incertaintie del chose que sera release le release de toutes actions, duties, & demaunds ne post ceo discharger. Fuit ouster resolue, que quant la est incertaintie in le person, nul release poit este fait : & pur ceo si leas pur vie soit fait, le rem al droit herres de J. S. & le lessor est disseisise, & le rogne fits de J. S. release al disseislorz, & puis J. S. morut, le release est void, car est incertainty le quel il sera droit herre al temps dl mort son pier. Et in 17. Eliz. cest case fuit moue al barre in banke le roy, Home lessor al baron & femme pur 21. ans, le remainder al suruiuoz de eux pur 21. ans, & le baron graunt ouster cest teame, & fuit tenus per Wray chiefe Justice a tota curia, que le graunt fuit voide, pur le incertaintie del person, tant comete que de toutes chattels reals q sont al feine le baron poit dispose, bne in cest case neqz le baron neqz la fee nad riens tanz suruiuoz. Et in le Register originall fo. 239. la est formdone port sur done in tel forme, R. dedit W. & I. vxori eius & hereditibus de corpore alterius ipsorum W. & I. qui diuinus viviter exentibus, & quod post mortem W. & I. prefato T. filio & heredi eiusdem W. qui predicti I. superuixit descendere debet &c. issint q le done fuit fait al baron & femme & al herres del corps del suruiuoz de eux, in quel case quant al estate telle la est incertaintie in le person, & pur ceo fils sont lease pur 21. ans obuant toutes les circumstancess require per le statute de 32. H. 8. vntoze cest lease ne lyera lissure, car pur le incertainty del person del suruiuoz lestate telle ne fuit vestie. Et ceux cases in mes Reportes, s. Albaines case, Diggs case, Rawlins case, Mayhowes case, le Rector de Chedingtons case, & Althams case furent affirme p ley in le arguement de case, & tire a prou le reason del rule in le case al barre.

Jiii

4. Si

Lampets case.

Le 4. reason 4. Si le dit Eliz. vst deuise deuant le primer deuisee, les executoz ou administratoz del dit Eliz. aueront le residue del dit terme apres le mort del primer deuisee, come appiert in le dit case de Weldon Plo. Com. quel est graund profe que Eliz. mesme puit auer release tiel interest que per son mort poet deuenet a ses executoz ou administratoz. Mes pois font plea: car si ieo soy disseisie, & ieo release tous actions a disseisoz, & puis le disseisoz morust, ieo nient obstant le releas auet briele dentre in le per & cui vers le heire le disseisoz, car cest action ne fuit in esse al temps del release fait, & actio nihil aliud est quam ius prosequendi in iuditio quod sibi debetur, & le dit briele dentrie ne fuit maintainable al temps del release, nient plus que si ieo vst deuise, mon heire ne serat barre per le dit release dauer briele dentre sur disseisin vers le disseisoz se disseisin fait a moy. Vide 22.H.6.fo.1. si un baile viens al aueter, & puis le baylloz release al bailee tous actions, le bailee morust, in briele de Detinue porz vers les executoz, ils ne prendront aduantage del dit release, car ceo determine per le mort del bailee, & l'action done vers les executoz est nouell action (coment de mesme le nature) foundue sur lour deuine demesne.

Le 5. reason 5. Le legacie ou deuise al Eliz. est in esse & present, coment que le interest est in futuro, & pur ceo le legacie ou deuise poet este discharge, & per consequence lenterest mesme, car qui distruit medium distruit finem: & pur ceo si un deuise a un 20. £. il vien al age de 24. ans & morust, le legatorze apres lage de 21. ans poet release cest legacie & deuise, & coment q apres il attaine al age de 24. il sera barre de ceo, & uncoze p release de tous suits & demaunds ceo nest pas releas; come si home per Indenture couenant a faire future act, & deuant le couenant entreint, le couenantee release tous actions, querels, & demandes, & puis le couenant est infreint, le dit release nest pas barre in action de Couenant, pur ceo que le couenant fuit desse performe in futuro, mes release de tous couenants vst este bone barre, car le couenant fuit in esse & presenti; & que ceo accord 35.H.8. Dyer 57. § 4. Eliz. in le Report le Benloes Seriant, quel case est cite alarge in Hoes case auant dit. Illint in le case al barre le deuise est in presenti, coment que le performance de ceo soit in futuro, & qui euerit causam euerit causatum futurum. Illint de bonis & catallis felonum & fugitiuorum &c. le inheritance est in esse coment que le accident soit incertein, mesme le ley de nomine poent reliese, & similiibus.

Illint

Lampets case.

52

Il s'int le chiefe Justice dit, q̄ comēt que nul assent auoit ēe don e
al legacie, vnozore instant q̄ Eliz. clame p̄ executozie deuise, el
puit in le vie del p̄mier deuise auer release le deuise & lega-
cie. Vide Middletons case in le 5. part de mes Reports, q̄ execu-
tors devant probate poient release vn det, pur ceo que comēt
q̄ ils ne poient auer action, vnozore lenterest del action est in
eux que ils poient release.

6. Serra inconuenient que tiel manner de perpetuitie
serra fait dun chattell, quaunt de inheritance neque per act
execute per le common ley, neque per limitation dun bse, ne-
que per deuises in darreine voluntes, aucun perpetuitie poet
este establie: Et si ceo sert allowe, ceo serra cause de conten-
tions, suits & auters inconueniences. Et fuit obserue, que
ceux leases pur tants des hundredz & thousands des ans
(queux sont conceive in le veritie, de fraude ou a defater le
roy ou auters feigniorz de lour gardz, ou auters loyall du-
ties) sont pluis tost vnfortunate & subiect al perde per vt-
lawyz, ou auters forfeitures; & si le owner de ceo morust in-
testate, lordinary geant a administration, per ceo femez p̄de
lour dowers, homes lour tenancie per le curtesie, & mults au-
ters inconueniences, in subuersion del cōmon ley, & ceo insuef,
& pur c̄ sert de touts auts pluis perillous a faire perpetuitie
de eux.

Le 6 reason

Et le chiefe Justice conclude son argument, quant al prin-
cipall point, oue vn Judgeamt in cest cour^s Tr 28. Eliz. Reginæ
rot. 1674 inter Hammingto adm' de Isabel Oram pl' & Rudyard
& Mary sa feme adm' de Laurence Kidwell in det sur obligati-
on fait per Laurence Kidwell al dit Isabell, quel obligation
fuit fait pur performance de couenantz in vn Indenture
inter Laurence Kidwell & le dit Isabell: Et le cas fuit tiel,
William Hammington possesse dun mese in Londres ap-
pel Hides house pur 31. ans, per son testament deuise les
profits de ceo al dit Isabell durante le temps que el con-
tinuer sole & widowe, & apres il deuise le terme a Reigh-
nold son fitz & morust, i. Mar', Isabell per assent del executoz
enter & purchase le dit mese in fee, & le dit Laurence Kidwell
bargaine & vend per le dit Indenture le dit mese al dit Isabell
in fee, & couenant que le mese al temps del assurance sert
cleremēt discharge de tous former bargaines, sales, titles,
rights, & tous auters charges: Le defendant plead coue-
nantz performe: le pl assigne pur breach le dit deuise al I-
sabell & puis al Reighnold, come est auantdit, & que puis le
dit

Lampets case.

dit Indenture Isabell ad Marie Dame, sur que Reignold enter, sur que le def. demurce. Et in cest case 4. pointes fueront resolue: 1. que le dit executor deuile al Reignold fuit bone; 2. comment que lenter termes fuit in Isabell quousque ac. illint que per le purchase del fee simple lenterest del Isabell fuit extinct, vñ ceo ne deafeate lexecutory intere del Reignold, mes que apres le mariage del Isabell, & nemy deuant, il poit enter; 3. fuit resolue que Reignold ne puis grant son interest ouster cy long come Isabell fuit sole; 4. le grand difficulty del case fuit instant que le dit Reignold al temps del dit couenant nauoit forisque possibility que le dit couenant ne extend a ceo, mes fuit resolue que le dit couenant extend a ceo, & a ce ppose ad essence, & auxy puis est forfeit, & Judgeint fuit done p le pl: quel Judgement proue forment que ceo poit este release.

¶ Le 2. question fuit moue, admittant le release al pris deuise destie suffisant a extinctor le claime & future interest del dit Eliz. si ceo amendra lestate del John Morrice leign que ad lenter termes in lui il viue cy longement, ou il per son mort les lessors poient enter: Et fuit resolue que le dit release ad consolidate & perfect lestate del dit John Morrice, qou ceo fuit determinable deuant p son mort, oye il ad lenter terme in lui durant tout le residue del terme absolument. Mes cest point est auant ouerrule in le 2. reason sur le report del case in 4.E.6.

Fuit dit que laxare est properant a mitter prisoners in fetters al liberty, & relaxare est a faire ceo estsoones; & Metaphorice, relaxare est a mitter al libertie fettered estates & intellis, & a faire eux free & absolute.

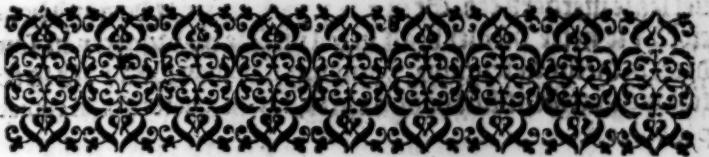
¶ 3. Question fuit moue in ce case, le quel appert ast assent ou agreeant del executor in cest case a prendre le dit mese sc. p force del deuise, car fuit agree per oes, ceo ad est deuant, que primement il pondra ceo coe executor: Et fuit resolue que qut William Taylor & Eliz. la fee per scriptum suum ad specialem instantiam & requisitionem pred' Iohann. Morrice senioris (que fuit executor) relaxauerunt &c. ceo amount a vn assent pur deut causes: vn pur ceo que il request ceo, que implie assent: 2. que il accept ceo, & auxy imply assent. Non enim refert an quis assensum suum praebet verbis, an rebus ipsis & factis, come 44.E.3.tit.fines 37. & Litt.cap. Attorn', si baron accept graunt del reuersion &c. ceo amount a vn Attornement, & in 37.H.6. ¶ 7. testy que ad interesse termini, cestassauoir, future interest,

Lampers case.

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ne poit per l'express leysse pols surrendre c'mes acceptance dun noeul lease merger a ceo. Et in 7.E.3.50. le seignior demand herrier, & le heire delivrer beast in q'il mesme ad property in son droit demesme al seignior, c'amount a un bone. Et puis in ce terme iudgement fait donez a entier, Quod querens nihil capiat per breue &c.

Trin.



Trin.ii.Reg.Iac.

Le case del Chancellor, Maisters & Schollers del Vniuersitie de Oxford.



Chaunceloz, Maisters, & Schollers del Vniuersitie de Oron, port Quare impedit vers Rich, Cuesiz de Cotentrie & Lich. Edward Basset gen, & Hugh Meare Clarke, a presenter al esglise de Draicot in le Mooze in le Countie de Staff. & count que vn John Draicot Esquire fuit seisie del manoz de Draicot in le county auant-dit a que laduowlon del Esglise de Draicot fuit appendant in fee, & per son fait grants le procheine auoidance del dit esglise a vn George Eyze, & puis le dit John Draicot morust, apres que mort, le manoz que laduowlon descend a vn John Draicot af cosin & heire le dit John Draicot, viz, fitz & heire de Phillip Draicot, fils & heire del dit John layel, & count ouster que per vn act in le Parliament nostre seignior le roy que oze est lan de son raigne le 3. fuit ordainne per authority de parliament, que Justices d'assise & gaole delivery & Justices de peace a lour Sessions aueront authority p force d'cest act a enquiter, oyer, & tminster de tous recusats & offences, cibien pur non receipt del sacraint solonqz le boier intent de mil le ley, coe pur non repairing al esglise solonqz le boier intent des formes leyes in tiel maner & forme, come Justices d'assise & gaole delivery puissent faire per les formes leys in case de

recu-

Le case del Chanc' &c.de Oxford 54

recusancie pur non repairing al esglise, & auxy aueront power al Assises et generall Gaoles deliveries, & al Sessions in queux ascu[n] inditement encounter ascu[n] person, ou pur non repairing al esglise solonque les formes leyes, ou pur non receiuing del sacrament soloque in la ley, ser[re] p[re]ise, ser[re] proclamation, per que sera command que le corps de chescun tiel offendre[ur] ser[re] rendee al viscount de mesme le countie &c. devant le procheine Assises & general gaole deliverie, ou devant le procheine general ou quarter Sessions respectivel[ement] destes tenus pur le countie, limit, division ou libertie, & si tel offendre[ur] ne appierera, que donq[ue] s[er] le recording de chescun tiel default, ceo ser[re] cy l'ufficiale conuictiōn in ley del dit offense dont tiel person ser[re] indite, come est auantdit come sil vist este couict per verdit: Et lou per un autre act a mesme le parliament est enact, que chescun person que adonques en apres ser[re] un popish recusant conuict, durant le temps que il remainera un recusant, puis le fine del Session del dit parliament, ser[re] disable a presenter al ascu[n] benefice oueure ou saungs cure, prebend, ou lining ecclesiastical, ou a conferre ou nominater al ascu[n] free schole, hospitall, seu donatione quelconque, & del commencement del mesme le parliament ser[re] auxy disable a graunter ascu[n] aduowson dascun benefice, prebend, ou lining ecclesiastical, & que le Chauncellour, Master et Schollers del Universitie de Oxford, cy tost come ascu[n] de eux ser[re] voidalizent le presentation, nomination, & collation al chescun tiel benefice, prebend, ou ecclesiastical lining, schole, hospitall, & donatione, gisant ou existent in les counties de Oron, Kent, Midd, Susse, Suff, Southf, Beck, Buck, Glouc, Wigorn, Stafford, Warwick, Wiltes, Somerset, Deuon, Cornewall, &c. queut deueigne bold durant tiel temps que le patron de eux remainera recusant conuict, come est auandit, s[er] come per le dit act inter autres pleinement appiert: Et le dit John Blaicot le fils de manoz auantdit a que[re] il dist esteant seigneur al Assises & generall gaole deliverie pur le countie de Stafford tenus al Staff. deins mesme le countie, le 29. iour de March lan du raigne nostre seignior le ro[is] que ore est le 8. fuit indite cibien pur non receiuing del sacrament, come pur non repairing al esglise &c. plus 3. mois, & adonques fuit proclame soloque lessatus ent faits, & que il al procheine Assises tenus 16. die Augusti anno 8. supradicto fuit default, & ne render son corps al viscount, per que le dit John Blaicot deueigne un popish

Le case del Chanc' &c.de Oxford

popish recusant conniict, et le dit John Draicott del manoz
auant dit a que ic, issint esteant seisi come est auant dit, le dit
esglise deuient boide per le mort del dit John Eyre, & vnoze
est boide, et ea ratione appent aux ditz Chancelloz, Maisters
et Schollers a present, & les defendauntes eux disturbe ic.
Leuesque pleade ne disturba pas ic. Edward Basset plede,
que le dit John Draicott le fits deuant le dit conuiction del
dit John, esteant seisi del dit manoz a que ic. s. 20. Junij ann.
8. supradict per son fait grant al dit Edward Basset le pro-
cheine auoidance al dit esglise, puis quel grant, les glise de-
uient boide per le mort del dit George Eyre, per que il pre-
sent le dit Hugh Meare, que a son presentement fuit admis
et institute ic. le dit Hugh Meare plede que John Draicott
le cosin fuit seisi del aduowson auant dit in fee, come un
grosse, et confesse le presentement de George Eyre, & pleade
que le dit John Draicott 1. Maij aun. 3. regis Iacobi per son fait
grant le procheine auoidance del dit esglise al dit Edward
Basset, & que les glise deuient boide p le mort del dit George
Eyre, per que il present ic. le dit Hugh Meare ne. Absque hoc
quod aduocatio predict pertin ad predictum manerium de Draicott &c. Le p^r quant al plea dozordarie p^ria brieve al evesque,
sed cesser executio, &c. Et quant al plea del dit Edward, les
p^r demur^r in ley; et quant all plea del dit Hugh, le p^r replis
Quod aduocatio ecclesie pred' pertiner ad manerium predictum,
& hoc petit quod inquirat per patriam, et predict Hugo similiter.
Sur le demur^r sur le plea del dit Edward 4. matters in le
ley fueront moue: 1. instant q le dit John Draicott le fits ne
fuit un recusant conniict al temps del grant del dit auoidace
al dit Edward Basset, si le graunt soit boide per le dit
statute de 3. regis Iacobi, 2. si cest grant esteant fait appes len-
ditement, si ceo ne fuit couin apparant, & si tiels grants seroient
allowe, a quel purpose le clause del dit statut concernant e-
seruera: 3. instant que le dit act done le benefit a presenter al
dit esglise al Chauncelloz & Schollers del Universite de
Oxford, & ils oient port cest action per le nosme de Chancelloz,
Maisters, & Schollers del Universite de Oxforde, le
quel act intend louer boire nosme de incorporation sis pren-
dront aucun benefit del dit act, per reason del dit milloismer:
4. instant que les p^r noint averre, que al temps del auoidace
del esglise que le dit John Draicott continue a remainre un po-
pish recusant, si ceo seroit intende.

¶ Quant al p^rimer fuit argue per le countell dell die
Edward

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Edward Basset, que per les parols et intention del dit braunch del statute nul person est disable a grantter le procheine auoidance, mes cest que est vn popish recusant conuict, et pur ceo les parols sont, euery person or persons that is or shall be a popish Recusant conuict : 2. il serf disable, mes solement durant le temps que il remaine vn recusant, car les parols sont during the time that hee shall be or remaine a recusant, shall be disabled to grant any auoidance : et pur ceo que al temps de cest graunt ill ne fuit vn recusant conuict, mes solement indire, a cest cause il nest tel recusant, come est descrire destre disable per cest act , et per consequence le dit graunt est bone. Auyx sera mischieuoung si auuter construction sera fait; car mittomug que vn seille dum aduowson in fee resoxt et repaire al Esglise solonque les leyes in tiel case establee, & pur bone consideration grant le procheine auoydance, & puis mults ans apres il deueine vn popish recusant, et de ceo soit conuict, sera dure, que cest graunt sera auoide, car nemo tenetur diuinare, et nest possible que le grauntee auera prescience de ceo , que est merement vn future contingent, & sera auxy enconter reason que home per son offence sublequent tollet losal interest vestu p son grant demesne & bone consideracion vest in vn estrang. Mes fuit resolute per tot' cur', q cest act ad disable cest J. Draicot le fitz a faire cest grant per les expres parols del act, queux boillont appeare le plus cleer si les material parols del act quant a cest case soient singulierement per luy per eux mme cest manner, euery person that shall be a popish recusant conuict, during the time that he shall be or remaine a recusant shal be disabled from the beginning of this present Session of parliament to grant any auoidance; & le dit John Draicot est deing tousz ceux parols, car 1. ou les parols sont euery person that shall be a popish recusant conuict, deing quz parols appiert que John Draicot est 2. le disabilitie est temporary, s. durant le temps de recusancie, 3. de quel temps serf il disable, s. del commencement de ce Session del parliament, jllint q cy long coe il remaine recusat conuict, il serf disable a faire grant del pchein auoidance del commencement del Session del pliament, & summa ratio est quz pro religione facit: et tiels retrospects divers judgements; et pur cest cite in Plowdens Com. inter Stradling & Morgan fo.207. que ou lestatute d 31.H.8.cap.13.enact, que le roy auera tousz les possesions vs

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abbeyes que adonques estoient, & que puis viende in ses
maines per surrender &c. in mesme lestate come ils adonques
fueront, ad este adiudge, come la est dit, que si aucun Col-
ledge puis cest statute fist lease pur ans, & mesme le Colledge
trois ou quater ans puis surt al Roy, que lour former leas
fait deuaant le surrender sera boide, car le roy auera les
possessions in mesme lestate come adonques, cestassauoire, al
temps del act de 31.Hen. 8. ils fueront, & adonques ils fue-
ront discharge & free dascun tiel lease : et oue ceo accord,
Mich.6.& 7.Eliz. Dier 231. Labbot de Ramsey oue lassent de
son couent iades patrons de Upwell in com North in Au-
gust 31. H. 8. que fuit puis lestatute de 31.H. 8. de Monaste-
ries, que commence 28.Aprilis, 31.H.8. grant le procheine a-
uoidance del dit esglise a Soyz Edward Mountague chivaler
iades chiese Justice del common banke, & puis in Nouem-
ber insuant, le abbot & couent surt al Roy &c. le interest del
procheine auoidance per mesme assignements fuit conuey al
vn Leeds, vers que Beaupree le patente del fee simple per
le Roy E.6. Port Quare impedit vers leuesque & lencumbent,
et per pleading al reioindre le case sup appiert, et in le re-
toindre le Sauing in le dit act appiert, oue tiel auerment q
le dit Leeds non est nec fuit, nec esse intelligi potest, aliquis ta-
lis persona, que per sive in actu predicto excipitur ; & per lopi-
tion de tous les Justices le graunt fuit boide vers le Roy,
et issint adiudge, & le Sauing ne poet este extend a tiels
future interests, mes extend solement al interest in esse, et
le record de cest plea commence Pascha 5. Elizabeth. Rotulo
129. in commun banco ; et vncoze in mesme le case toutes les
dits obiections queux ouent estre faits in le case al barre, pu-
ssoient auer estre fait in le dit case de Beaupree. Auxy est
purueu per lestatute de 13. Elizabeth,cap.4. que tous terres
&c. de chescun Treasourer &c. ou person accountable al
roigne pur aucun office ou charge &c. queux il adonques a-
boit ou in apres aueroit, shall bee lyable &c. in like and in
as large and beneficall manner to all intents and purposes, as if
the same Treasourer had the day hee became first Officer or Ac-
comptant stand bound by writing obligatorie, hauing the ef-
fect of a statute staple to her Maiestie. Et in anno 35. Elizabeth.
fuit resolue in le case de Sir Christopher Hatton iades
Chauncelorz Danglterre, que deueigne tiel officer al roigne
in anno 20. de son raigne, que si vn tiel officer account bien
et

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et boirement ou le roigne et owa a luy tiens, et in anno 22. de son raigne esteant in cy bone case purchase terre, & in mesme lan conveys ou lessa eo aux autrez bona fide sur bone et boire consideration, et puis in ann. 32. Eliz. per reason del dic office il deueigne in arreverages sur son account pur 4. ou 5. ans, que est long temps puis son conuaince ou lessa, que hncore la terre iſſint conueie ou lessa sera liable a ceulz arreverages per reason del retrospect des ditz parols (as if the same Treasurer &c. had the day he became first officer &c. stand bound &c.) Iſſint in le case al barre , apres que le dit John Drakot fuit vn popish recusant conuict , durant le temps que il remaine recusant il oye sera disable a graunter aucun procheine auoindance , per le retrospect del act puis le commencement del dit Session del parliament, & les felonys del act intendeſ a inflict greinder disabilitie sur eux queux deueigne popish recusants puis le damnable & damned powder treason que devant.

Quant al 2. fuit resolute, que conin ne sera vnques intend ou presume in ley finon que soit expreſſant auerſe , quia odiosa et inhonesta non sunt in lege presumenda , & in facto quod se haber ad bonum et malum , magis de bono quam de malo presumendum est ; et iſſint fuit adiudge in le case de Meriell Littleton, Trinita' 10. Iacobi in cest court, ou le case fuit, que Elizabeth Ticer executrix del testament del Thomas Ticer port action de trespass vi & armis vngs Meriell Littleton & John Daunſter dum bone price vi. l. al Hagley in le countie de Wigorne 20. Octob. anno 7. Iacobi ac. les defendants pleade non culp. & les Juroys troue espeſtiall verdit , que vn Thomas Ticer fuit leſſie in fee de 80. acres de terre in Hagley et eux teignoit de John Littleton armig ut de manerio suo de Hagley in le dit countie per fealtie et rent de iij. s. i. d. ob. fecr cur', & reddend opimum animal cuiuslibet tenantis in feodo simplici post mortem eiusdem tenantis pro Heriotto, de quel mannoz le dit Meriel Littleton fuit tenaunt pur vie al temps del mort del dit Thomas Ticer, & le dit Thomas Ticer iſſint esteant leſſie 16. die Augusti anno 42. Elizabeth. Reginz per son fait , in conſideration de paternall amour a John son fils et heire apparaunt, et in conſideration dun mariage desti eſte & solemnize inter le dit John Ticer & vn Jocolam Groue , & pur le aduancement del dit John, infeoffa le dit John Ticer del ditz 10. acres de terre, a auer & tener a luy & les heires, al oeps

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de luy & ses heires, per force de que le dit John fuit ent leisie
in son demesne come de see, & issint leisie m le 16. tour de Au-
gust ann. 42. eisd. nuper reginæ, per son fait indent, al intent q
le dit Joice, ne serre in dowe durant le vie del dit Thomas,
redemise les dits 80. acres de terre al dit Thomas pur 40.
ans st le dit Thomas binera cy longement, & que le 1. tour de
September ensuât le mariage inter le dit John & Joice fuit
solemnize, & puis le dit fessement John Tirer fuit fait al court
al dit John Littleton seignior del dit manor, & que puis le
fessement Thomas paya le rent pur les dits 80. acres de terre,
et pais Tho. Tirer, 30 Jun. ann. 7. Iac. regis morib. esteant
posseſſe del dit boue, que fuit le melior beast que il ad, et quel
def. prist le boue pro heriotto post mortem predicti Thomæ Tirer
come due pur les dits tenements; et les Juroz trouont ou-
ster le statute de 13. Eliz. pur auoinding & abolishing de feined,
couinous, & fraudulent feoffements, dones, &c. cibien des
terres & tenements come dez bienz & chateux, queux fesse-
ments, dones &c. sont deuisee et conueue de malice, fraude,
&c. al entent a dalgier, hinder, ou defrauder creditoz et au-
ters de lour iust & loyall actions, suits, debtz, &c. heriotz,
mortuaries, & reliées &c. & pur cest puruieu per le dit act que
touts fessements, dones, &c. des terres, tenements, & heredita-
mits, biens & chateux &c. deé fait al asse intent ou purpose de-
uant declare & expres, serre adiudge & pris (cōe vers le credi-
ditoz ou aux person issint defraude & grieue) desse clereint et
ousterint void & de nul effect &c. et si sur tout le matt les ditz
Meriell & Jo. Daunsoz sont culp. donqz ils troue eux culp.
& assise damages a b.l. & costs v.b. &c. Et ce case fuit argue
al banc, & termino Trin. 10. Iac. regis fuit argue al bench, & fuit
vnemt resolute, q intant que nul fraude est troue p les Juroz
le court ne adiudgera le dit fessement fraudulēt, & comt que les
Juroz ont troue circumstancies & presumptions a intif les Ju-
roz a trou fraud, vñc ceo nest forsqz euidence al iury, & nemay
asse matter sur q le court poet adiudg fraud, & l' office des Ju-
roz est dadiugur sur lour euidence concernant matter de
fact, et sur cest a donec verdit, & nemay a layser matt de euidēce
al court adiudger q nappiert al eux. Et p ceo le chiese Justice
teignoit, q si A. port action sur le case vers B. sur trouer et
conuencion de plate, iewelz, &c. & le defendant pleade non
culp. ore est bone euidence prima facie, a prouer conuersion q
le pl request le defendant a deliner eur & si refuse, & pur ceo
serre presume que il ad eux conuert a son bte, mes vnoce ceo
nest

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nest forisque enidense, & si soit troue per speciall verdit in tel case que le plaintife request eux del defendant & il refuse, ceo nest matter sur que le court poet adiudger aucun conuersion, car le conuersion doit alter le action del Detinue a un trespass sur le case, que un denier ne poet in ley faire, car in chescun action de detinue la est alledge in le count un request & refusel, uncoze est bone euidence come ad este dit, & issint tous soirs ad este allowe a prouer conuersion que le plaintife demaund les biens, & le defendant refuse a deliuer eux. 2. L'estatute dit a defrauder creditoz & auters de lour iust debes &c. heriots : & les Juroz nont pas troue que le dit feossement fuit fait a defrauder le seignior de son heriot, et issint ils nont troue le case deins l'estatute. 3. Si le fits vst deuie in la vie del pier, le seignior auera heriot puis son mort. 4. Est troue que l'entent del feossement et redemise pur ang, faite deuant le mariage, fuit al intent que le dit Joice ne serroit endowé durant la vie del pier, mes que apres son mort que el sera endowé coment que la fits vst deuie in la vie la pier : quel feossement estant troue per les Juroz destre fait in consideration del mariage, & a cest particulaer intent concernant le dower del feme del fits, ne sera per construction in ley extende a aucun autre entent. Et sur ceo le chiefe Justice mitte le case in Mich. 9. & 10. Eliz. tenant le roy in capite, son fits et heire apparent de 7. ans, est indebet a divers, a implead pur ses dets in divers courts, et fearing le hinderance et impouerishment de luy mesme sa feme et enfants per extent de ses terres &c. pur execuation de les dits debts infesse divers person sub condition que quant il ou ses heires paient al fessent 30. L'que donques ils feront tiels feossements & a tiels bles come il ou ses heires limitez ou appointez, ou autrement le le fessent seroit voide &c. & cest feossement et intent est troue, per Mandamus returne in le Chauncery & qd nulla alia causa, intentio, aut collusio, viz. ad defraudand' reg' &c. de custodia heredum vel terrarū : & coift que cest fessement fuit troue deē fait p' fraud & couin (q' est toutes foit's illoyal) vñc intant que le fraude fuit a un pticular intent, s. a defrauder creditoz, & ne seroit exēd a aucun autre fraude, s. a defrauder le roy de son gard, comt q' in heritie & per le euent, per cest feossement le roy fuit defraude del gard del corps & del tre, et issint fuit resolute & decree in le court de Gards : a fortiori qnt est troue q' cest feossement in le case de Meriell Litt. fuit in consideration de mariage et de advancement de son fitz, & q' la feme del fits seroit endowé vers lun

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et nemp vers lauter, queux tous g sont loyall considerations, le court ne extendra à un iloyal intent, ne adiudgera sur tout le matter troue in cest case q le fessent fait fait a aucun autre intent que est troue per le iurie.

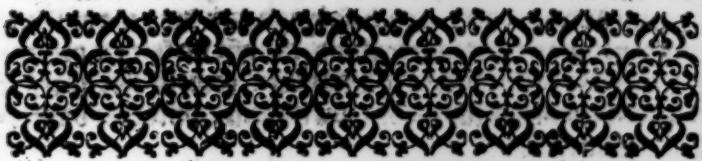
Quant al 3. obiectio in le case al barre, ceo fuit resolute et rrulez 3. boites: 1. In un act de pliamēt misnomer dun cooperatorac, qnt le p̄p̄x intentio appiert, ne auoide lart, niēt plus q̄ in un volut; car parliament, testament, & arbitramēt, s̄rē dēe p̄rise solonqz les mērs & intentibz de eux q̄ sont p̄ties a c: z pur c̄ qnt le descriptiōn dun corporac in un pliamēt ou in volunt, est tiel q̄ le boier corporac intend, est apparant, & n'est possible dēe intend dascun autre corporac, cosit que le droit nosme de corporac (q̄ est reſtricte dēe exp̄esse in grantz & faitz) ne soient p̄clement p̄sue, bns lart de pliamēt, & le volunt p̄ndē effect. Et p̄ ceo in 21. R. 2. tit. deuise Pl. 2. 7. ou un deuise certain tenement in Londres p̄ vie, le resi ouster ecclesiaz. sc i Andrez de Holborne, est adiudge la q̄ cest deuise est bone al corporac del p̄son del esglise de S. Andrey in Holborne & ses succcessoz, car tiel descriptiōn fuit sufficient in un volut a exp̄esser le p̄son del esglise & ses succcessoz: par iurations si deuise soit fait al bniſſitie de Oxford, ou al citie de Lond, ou al Trinitie Colledge in Cambridge ac, tiel deuise ē bone, et in c̄ le boier nosme du corporac serf imply, car p̄ ceux descriptiōns le intentiē del deuise est apparat, q̄ le corps incorporate de chāel de eux p̄uid. Illint icy, qſit le parliament donal' benefice al Chanceloz & schollers d'Oxford & lour succcessoz, ce descriptiōn ē sufficient a exp̄ress le benefice del seafoz del act, q̄ le incorporac del bniſſitie de Oxf. q̄ ad Chāeloz & schollers ē p̄ndre; & nul aut corporac poet ē prendre: 2. Le record ē bien, car lart est plead sicōe le benefice adēe done p̄ le dit act exp̄resser (che est imply in ley) al chāceloz, masters, & schollers, & le def. ad demurrer in ley sur l, & ilſint confesse c: 3. Cest clause q̄ done ce benefice al bniſſitie de Oxf. est un priuate clause dont les Judges sans plead de ceo ne poient prendre notice, & pur c̄ ore les Judges doient prendre ceo come ceo est pleade.

Quant al 4. obiectio, inspecto recordo appiert q̄ les p̄l ad auerre ē fessent; car ap̄s ceo q̄ ils oint allede q̄ le dit John Dracot le fitz Papalis recusans conuict illi oint dit, ac pred' Io. Dracot de manerio pred' cū pertin' ad qd. &c. in forma pred' seſito existen' et Papalis recusans conuict in forma pred' existens et remanens, eccl. pred' vacauit per morte pred' Georgij Eyre: mes q̄ les p̄l nont ceo auerre, le court fuit dopinion que le count nad este

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esté suffisent, pur ceo que ils nauoient en habile eux m'a p22.
Der beneat del ditz get, s ne besoigne a eus deauoir que si le
droit continue a ramaine reculant, est que besoigne la presen-
tation has vice fait deit de le bouscule, comment que appes le
reculant conforme iuy mefme, ou nupuis, besoigne le bouscule
de la p[re]sentece.

Trin.



Trin.ii.Reg.Iac.

Leuesque de Sarums case.

In brieve de Second deliuerance port per Simon Stanton & Henry Knap vers John Greene de p[re]sle de 127, verbis al Blewberry in un lieu appelle le personage Bay in le countie de Dorset, le def. dit q[uo]d lieu ou containe 60. acres, & auowale pris sel pur ceo que John Euelx de Sarum, fuit seise del manor de Sherborne in le countie de Dorset, dont le lieu ou ic. fuit parcell in son demesme come de fee come in droit de son Evesquerie, & issint seise v[er]cim' Sep. ann. 27. Eliz. per son fait cy monstre auant, grant al Edward Grene et al dit John Grene & eorū vtricq; officiū supervisoris oīu maner suorum &c. incom' Wilts. Dorf. Berk. & South, & alibi infra regnum Angliae, per eux & lour deputies pur queux ils boillent responder, a auer & tener a eux ic. pur terme de lour viez: Et ouster per mesme le fait granta a eux rent de 20. nobles, per annum issuant hors del dit manor de Sherborne, one diet & reasonable expences pur eux & lour deputies, equitando & alias occupando, arbitrio eiusdem Episcopi & success. suorum, aut auditorum eorum, que clause de destesse si debito modo petatur; & que le dit grant fuit confirme per le Deane et Chapter 5. Sept. 28. Eliz. in le bie del dit John Euelque de Sarum, quodque predictum officium, est antiquum officium, quodque dictum officium vna cum predicto feodo vj.l. xij.s.iiij. d.&c.

con-

Leuesque de Sarums case.

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cesserunt per predictum Iohē Episcopum Sarū et predecessores suos tali personæ vel personis quidus sibi placuerit, & monstre le mort de Edward Grene, & que il demaund le rent, & pur de fault de paument distraigne ac. In barre de quel auowrie le plaintif pleade testatute de 1. reginae Eliz. per que est enact, That all gifts, graunts, feoffements, fines, or other conueiances or estates, from the first day of this present Parliament, to be had, made, done, or suffered by any Archbishop or Bishop, of any honors, castles, manors, lands, tenements, or other hereditamēts parcell of the possessions of his Archbischopricke or Bishopricke, or vnitied, appertaining, or belonging to any of the said Archbischoprickes or Bishoprickes, to any person or persons &c. vt in statuto, et pleade ouster quod nec officium predictum nec annualis redditus predictus ante concessionem predict' &c. vñquam concess. fuerunt per eundem Episcopum vel aliquem predecessorum suorū pro aliquo longiore tempore quam vnius vitæ, per quod cōcessio predict' per predictum Iohannem nuper Episcopum Sarum vigore actus predicti vacua fuit &c. Sur quel barre al Auowrie lauowant demurre in ley, et fuit a divers iours per les Seriants argue al barre, & ore in mesme cest⁹ terme fuit argue per les Justices al bench. Et divers exceptions fuit prise al barre del auowrie per le councell de auowant.

C 1. Que lauowant in son auowrie ad alledged per matter in fact, que le dit office auoit este grant a tiel person ou persons come pleist al Euesque ac. & le defendant in son barre ad pleade in le Negative, que le dit office ac. nad este grant forsque pur vie del vn ac. et pur ceo il doist auer conclude, et hoc querit quod inquiratur per patriam, mes il ad cōclude tout son plea & hoc paratus est verificare &c. et non allocatur. Car lauowant nad alledged que le dit office ad est grant ac. a divers persons, mes a tiel person ou persons come pleist al Euesqz, et in disiunctiuis sufficit alterum esse verum. C 2. Auter exception fuit prise al barre del Auowrie, que nappiert per le barre al Auowrie que John Euesque de Sarum le grauntorz fuit mort, et seck intende que il est in vie, pur ceo que le plea de chescun serē pris pluis fort vers lui ambigua responsio contra proferentem est accipienda, et doncques si soit in vie, le grant del dit office a 2. fuit bone, comment que ne bñques ceo auoit este grant a 2. devant, & liera leuesqz mesme pur son temps, cōe ad eē adiudge in 32. & 33. Eliz. in cest court inter Sale pl. et Leuesqz de Couentry et Lichfield def. in Quare impedit, et P. 39. Eliz. inter Hunt et Singleton ; quip cases poies beier cite in Lin-

Leuesque de Sarums case.

Lincolne colledge case in le 3. part de mes Reports fo. 59. & 60.
queux cases furent affirmez pur bone ley per le court. Sed non al-
locatur exceptio, pur ceo que appert al court que le dit John
ne fuit oze evesque de Sarum. Car le plaintif in son barre
al auowrie conclude, per quod le dit grant per predict' Iohannem
nuper Episcopum Sarum vigore actus predicti fuit voide,
le quel lauowant per son demur ad confesse; & ceut parols
per predictum Iohannem nuper Episcopum Sarum impli-
ent & importent que oze il nest Evesque de Sarum. Vide sem-
ble implications 13. Eliza. Dier 304. & 14. Eliza. 306. b. issint
in 10. E. 4. fol. 18. b. Si in trespass le defendant pleade in barre
que B. lessa a luy la terre in que ac. a volunt, per force de
que il enter a fuit et bnoce est ent possesse per force del lease
a volunt ceo implie que le lessor est in vie, car sil fuit mort le
lease fuit determine, & donques il ne poit estre possesse per
force de ceo.

Cauter exception fuit prise al auowrie, testassanoir, que
le alleldging de ceo desse antiquum officium fuit tropé generall
et incertaine, mes doit auer prescrire in ceo, ou monstre plus
certaintie que oze il ad fait; & tuit tenus bone exception:
et cest diuersite fuit prise inter le allegation del conveyance
al matter, & le matter mesme, come in 11. H. 4. 89. la vn, a
conueyer luy title a vn Leet, prescrire que si et tous ceux
que estate il ad in le Hundred ouint ewe vn Leete ac. & bene
car le prescription in le Hundred nest que conveyance: et o-
ue ceo accord 19. R. 2. tit. Action sur le case 51. mes quant il
clame aucun chose que gist in grant per prescription origi-
nalement de soy mesme, il ne poet prescrire in ceo per vn
que estate, come Littleton teigne f. 41. 21. H. 7. 15. &c. issint qnt
vn boille pleader custome in vn ville, suffist a dire que fuit
antiqua villa, & monstre l'assise. Vide 22. He. 6. tit. Prescription
47. & 6. E. 6. dier 71. Issint dun office il clame aucun chose
pertenant al office, suffist a dire quod fuit antiquum officium,
mes quant il clame l'office mesme nest sufficient a dire quod
est antiquum officium.

Et quant al matter in ley fuit obiect que le dit grant fayt
per le dit iades Evesque de Sarum, esteant constime per le
Deane & Chapter, ne fuit restraine per le dit act de 1. Eliz. pur
diuers causes: 1. que cest case fuit hors del parolz del act,
car ceo ne fuit aucun part des possessions del dit evesquery, ne
pertenant a ceo: 2. Seble a eux que riens est restraine mes
tiels hereditaments, dont sur demise fait pur 3. vies ou 21.
ans

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ans solonqne lestatute, vn rent poet este reserue, car les parols del act sont, other than for the terme of xxij. yeares or three liues &c. whereupon the old and accustomed yerely rent or more shall be reserued &c. et in cest case nul rent poet este reserue: 3. diuersite fuit prise inter office in esse in droit de son evesquerie, car ceo poet este dit parcell de ses possessions, a tiell office que leuesque mesme ne poet exerciser ne poet est dit parcell de ses possessions: 4. si grant pur 2. vies oue launcient see serra per construction del statutre restraine, donques per consequense grant pur vn vie solement serra auxi restraine; car per quelz parols ou construction serra grant p deur vies del dit office oue launcient see restraine, et nemy pur vn vie mes fuit vnement resolue per totam Curiam, que le dit grant del dit office pur deur vies fuit boide vers le successoz per le dit act de 1. Eliz.

Et in largument de cest case 4. choses furront consider. ¶ 1. que fuit le common ley deuant aucun statute en fait. ¶ 2. quel alteration lestatute de 32. H.8. cap.28. adfait. ¶ 3. que est fait per le dit act de 1. Eliz. ¶ Et darcennement si le dit grant a 2. del dit office, soit restraine per le dit act de. 1. Eliz. vers le successoz. ¶ Et quant al p̄mier fuit resolute, que al common ley leuesque oue le consent del Chapter poient per lour charters de feossements, grants, ou leases, lie lour successoz; et pur ceo tiel grant a 2. del office auant dit pur lour vies, auoit este bone per le common ley, comment que ne vñq̄s fuit graunt a 2. deuant: in que fuit obserue le prudence del sages del ley, que nul sole corporatzion fuit vñques trust oue le disposition de ses possessions, quant a liet de ses successoz; mes in tiel case ils couient dater les consents des auters, come leuesque de son Deane & Chapter, le abbot le consent de son couent, le parson le consent del patron & ordinarie, & sic de ceteris. ¶ Quant al 2. lestatute de 32. H.8. ad enlarge le powter del evesque; car per cest act il poit faire lease pur 21. ans, ou trois vies, oue diuers limitations: 1. que chescun viel lease soit expire ou surrender deins vn an &c. 2. que le terre couient este pluis communement deuisse al ferme per le space de 20. ans &c. & ceo leuesque solement poit faire per fait Indent pursuaunt les limitations del statutre sans le Deane & Chapter.

¶ Quant al 3. & 4. point fuit resolute, que per lach de primo Eliz. les evesques sont generalment restraine a faire aucun estate ou interest dascunn terre, teneint, ou hereditament pcel de

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de son evesquerie, ou dascun charge, ou incumbrance hors
de ceo, ou dascun autre chose in lour disposition, a lier le suc-
cessorz, mes solement un leale pur 21. ans du 3. vies de tiels
terres, tenemens, & hereditaments, queux oont este vusual-
ment demise, & sur que le vusual rent serre reserue solonque le
dit act de 1. Eliz. Et s'ilz sont lease dascun terres vusualment,
demise, & reserue le vusual rent solonque lestatute de 1. Eliz. un-
coez si tous les limitations prescribe per lestatute de 32. H.
8. ne sont purslie, come si ne soit tout in possession, ou que le
veiel lease ne soit expire ou surrendre deins un an (que nest
prohibite per lestatute de 1. Eliz. come fuit adiudice in Foxes
case) donques tiel lease ne lyera le successorz sinon que ceo
soit confirme per le Deane & Chapter, car lestatute de 1. Eli-
ne ennable aucun Archievesque ou Evesque solement a faire
ascun lease. Et tiel construction ad este fait come est auant-
dit, a disabler leuesque a faire aucun chose sinon a faire lea-
ses pur 21. ans ou 3. vies come est auantdit) concernant le-
uesquery a lier son successorz, come grant de procheine auoy-
dance per leuesque dun benefice al autre, comment que soit con-
firme per le Deane & Chapter, est restraine per lestatute de 1.
Eliz. a lier son successorz, come souuent foits ad este adiudice,
pur ceo que fuit tiel hereditament sur que rent ne poet estre
reserue, car tout ceo que nest permitte per lexception, & other
than &c. est restraine quant al successorz per le generall pur-
uien del act : mes tiel grant liera leuesque mesme nient ob-
stant q lestatute dit q sera boid a tous entents, constructi-
ons, & purposez, car les seazors del act entendont non sole-
ment aduancement de religion, quant professorz de divinity
aueront duplicem honorem, & honorem reuerentia, & hono-
rem beneficentia, mes auxy encrease de bone hospitalite &
auoinding de dilapidations & ruine del eglise, queux le succes-
sorz si les acts de son predecessor liera luy ne serre able a reedi-
fier ou reparier : & pur ceo les seazors del act regardot pluis
tost le succession que leuesque mesme. Vide Elmers case in le 5.
part de mes Reports fo. 2. & Jewels case ibidem fo. 3. Le case de ec-
clesiasticall persons ibd. fo. 14. 15. & Eitrues case, & diuers au-
ters cases sur lestatute de 13. Eliz. c. 10. concernant Deanes
et Chapters &c. quel statute est cosin germaine a cest act de
1. Eliz. & ceux polg in le act de 1. parcell of the possessions of his
Archbishoprike or Bishoprick, or vinted, belonging, or appertain-
ing to the said Archbishoprike or Bishoprick, & poet este bien
et aptiment dit que le done & disposition de cest office & tous
auters

autres semblables sont belonging al Archievesquery ou Euesquery : Car comment que leuesque mesme ne poet exerciser
tel office luy mesme, vnoze si ad inheritance in le don & dis-
position de ceo, cõe est tenus in Roger Countee de Rutlands
case in le 8. part de mes Reports fol. 55. Et ceulz parolz, belong-
ing to the Archbisopricke or Bisopricke, sett pris puz, con-
cerning the Archbisopricke or Bisopricke : & par ceo si bisefe
Dannuity soit poze vers Euesque sur title de prescription,
ou autrement, & Judgement soit done vers luy sur verdict ou
confession ceo est restreine per cest act, pur ceo que leuesque
est charge oue le annuity in respect de son Euesquery, et pur
ceo le successoz fratre charge oue les arreterages incuree in la vie
del pre decessor, come est agree in 21. H. 7. 4. 34. Ed. 3. Scire fac'
154.48. Ed. 3. 26. 22. H. 6. 10. 33. H. 6. 44. & vnoze lannuity nest
issuant hors del Euesquery, come appert in 16. H. 6. 16. & 10
Ed. 4. 10. Mes pur ceo que ceo concerne leuesquery & tend al
diminution del reuenues & depauperatio des successoz, ceo
est restreine per l'estatute de 1. Eliz. Donques a ruder al ob-
jection que ad este fait, pur quov sera graunt del dit office
al un solemet bone ; a ceo fuit ruse & resolute p toute le court,
que si l'office ad este ancient & necessary, le graunt de ceo oue
launcient fee nest pas aucun diminution del reuenue, ne de-
pauperation del successor, & pur ceo pur necessarie tiels gratz
sont per construction exempt hors del general restraint de
cest act de primo : Car come Bracton dit fol. 247. illud quod a-
liis licitum non est, necessitas facit licitum, & necessitas inducit
privilegium quod iure privatur. Et si Euesques naueront
power a graunter tiel offices de service et necessarie, pur le
bye de les Grantees, mes que lour estates dependez sur
incertainties, come sur le mort, translation, &c. del Eues-
que, donques les plus sufficient persons ne boillent eux
seruer in tiels officez, ou al meins ne boille discharger
lour office oue aucun alacritie, sils nouent tiel certaintie del
estate pur terme de lour byes come lour predecessorz in
mesme les officez auoyent. Mes quaunt launcient office
ad este graunt al un nest de necessarie a grantir ceo a 2. & pur
ceo tiel grant nest exempt hors del general restraint, nient
plus que si leuesque grant un office oue launcient fee al un,
& puis il grant ceo in reversion al autre, ceo est restreine per

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lestatute, quia nest de necessitie, et si Leuesque poest grantir tress offices a 2, il puit graunter eux launs alcun limitation de viez, & per consequence in infinitis; et issint sil poest graunter al vn reverston, il poet graunter al auters laungs alcuns limitation, et per autiel reason il puit graunter in taile, ou in see, que sera tout ousterment encounter l'intention del dit act de 1. & de tel opinion fuit Popham chiese Justice Michaelis 44. &c 45. Elizab. in Scamblers case. Vide 23. Elizab. Dyer 370. Horne Evesque de Winchester puit lestatute de 1. Eliz. grant al Doctor Dale pur vie rent hors del Manoz de Waltham pro concilio &c. Leuesque morust, Doctor Dale pur ceo que le rent fuit void per le mort del grantor, poer brieve de Den pur les arrerages incure in son vie vers les executors: in que deus points sont destre obserme, lun que le graunt ne fuit void vers Leuesque mesme, lautre que comment que le rent fuit issuant hors des possessions et nemy parcell, ceo fuit void per son mort. Trame 30. Elizab. Rotulo 346. in cest Court, Leuesque de Chelbez puit lestatute de 1. graunt al George Bolton vn annuity de 5. markes per annum pur son vie pro consilio impens & impendendo, que fuit confirme per le Deane et Chapter, & puis Leuesque morust, Bolton port brieve Damuary vers le successour, et in son Count auerre que les predecessorz del Evesque auoyent graunt reasonable fees (meugue auerre que cest fee auoit estre graunt deuaunt) et auerre que il fuit homo consiliarius & in lege peritus, & l'opinion del Court fuit encounter le Plaintiff, & pur ceo sil ne bonques auoit iudgement: Mes la fuit resolute, que comment que le dit Evesquery fuit foundue de tardiss temps, cestassauoir, in temps Henrici octau, vncoze graunt de offices de necessitie al vn in possession one reasonable fee (le reasonablenes de que sera decide per le Court de Justice in que ces dependera) est bone, & come adeste dit, exempt hors del generali restraint del dit act. Et le Court ne pait alcun regard a ceo que nappiert quaunt Edward Greene vn des grantees morust, car admit que il morust in la vie del dit John Evesque, issint que ozes vers le successorz vn solement ad le office, vncoze le graunt per force del dit act de primo est void quaunt al successorz, quia que malo

malo inchoata sunt principio, vix est ut bono peragantur exitu, et quod initio non valet, tractu temporis non conualescit; & lestatut^e de Reginæ Elizabethæ auoyt al temps del graunt adindge ceo voide quant al successor que nul accident succident pot faire bone, nient pluis que si un Euesque fait leasse de terre pur 4. bies, & lun morust in son vie, issint que ore ne sont que trois vies, & puis il morust, vncoze ceo ne lyera le successor, coment que touts autres choses requisit per lestatute de 32. Hen. 8. sont obserue.

C5. Fuit resolue, que le graunt dascun auncient office al vn oue launcient see per un Euesque ne lyera le successor, sanon que ceo soit confime per le Deane et Chapter, car tiels graunts ne sont, come appiert deuaunt, restraine per lestatute de primo Elizabeth, & pur ceo remaine al Common Ley, et per consequence doyent este cōfirme per le Deane & chapter.

Cauxy nul regard fuit prise per le Court, que ne appiert que le dit John Euesque fuit mort, car nuper Episcopum pot implier vn translation ou autre remotion, cibien come mort, mes ceo est tout vn; car soyte il translate, depose, ou autrement remoue, le graunt est voide vers le successor. **D**arreinemement, coment que nappiert que la fuit aucun successour al temps del distres (car posito que ne fuit aucun successour adonques fait) vncoze ceo nest materiall, car le grant determine per le mort ou remotion del dit John Euesque. Et puis in mesme testy terme iudgement fuit don^t pur le plaintif Simon Stanton et Henry Knappe, & vers le dit John Grene que clame le dit office.

Nota Lecteur, le subiect de cesse case est petit, mes le consequence graund, et ou per force dun exception in le dit act de primo Reginæ Elizabeth ascu Archievesque ou Euesque pot oue le consent del Deane et Chapter conuey aucun de lour possessions al Roy, les heires, & successors dascun estate quecunque, nostre Seigniour le Roy que ore est, deson pietie et deuotion al religion, & pur le honour de ceo, & que tiels possessions que fuet dones per ses noble progenitorz royes Denglifre, ne fra conuert al priuat bles, ad a s prim pliament & g authozity de ceo restraine eur a faire aucun cōuictace ou estate ou a luy m^s, ou a as^t de ses h^res, et successors.

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Et

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Et iillint vous appzenders queux acts vn Archevesque ou
Evesque poet faire concernant lour possessions sans lassent
del Deane et Chapter, et queux poet faire oue le Deane et
Chapter, et queux il ne poet faire oze, comment que souent o-
ue le consent de lour Deanes & Chapters,

Hill.



Hill.10.Iacobi Regis.

VWhistlers case.

In Quare impedit int John Whistler gen
pr et John Evesque de Oxoni & Isaac
Singleton Clerke defendat, pur L'eglise
de Whitechurche in com' Oxoni, le case sur
le speciall verdit fait tiel. Le roigne Eliz.
fuit Seigneur del Manoir de Whitechurche a
q' iaduowson del Eglise de Whitechurche
fuit appendant in son demesne come de fee come in droit de
son Cozone, & iust le siecle 24. April. anno 9. Eliz. per les Let-
ters Patents demise le dit manoz que l'appartenance al
Willm Smith except aduowson des Eglises &c, pur
21. ans, & puis le roigne 22. die Maij anno regni sui 27. recitanc
le dit demise del dit manoz al dit Willm Smith que lex-
ception del aduowson, fist autre demise in reversion al dit
Willm Smith del dit manoz que es appartenace except
iaduowson, & puis le roigne Eliz. morut, & le Roy que ore
est in consideration de service ac ex certa scientia & ihermo motu
graunt al Sir George Hobome Chst totum illud manerium
sive dominium de Whitechurche in com' nostro Oxon' cum suis
iuribus, membris, & pertin' vniuersis, Ac omnia et singula domo-
s, edificia, &c. & hereditamenta nostra quacunque predicto
manerio sive dominio de Whitechurche sive alicui inde parcell.
quoquo modo spectan' sive pertin' cuidam Willielmo Smith per
literas patentes dictæ nuper reg. Eliz. sub magno sigillo suo An-
glie pro termino xxij. annor', exceptis que in eisdem literis patentibus
exciptiur, mentionat fore dimiss. ac postea per alias literas pa-
tentibus, & mentionat lease in resur, & in que est auxp autiel clausi
exceptis que in eisdem literis patent. excipiuntur, mentionat fore
dimiss,

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dimissa, Ac vterius de vberiori gratia nostra speciali, ac ex certa scientia & mero motu nostris, damus & concedimus præfato Georgio Howme Militi hæredibus & assignatis suis imperpetuum omnia & singula mesuagia &c. tenementa prædicto manerio siue dominio de Whitechurch quoquo modo spectan' siue pertin' &c. Damus vterius, & per præsentes pro nobis hæredibus & successoribus nostris, concedimus præfat' Georgio Howme Militi hæredibus & assignatis suis imperpetuum prædictum manerium siue dominium de Whitechurch ac cætera omnia & singula permitta superius per præsentes concessa cum eorum pertin' vniuersis adeo plene & integre, & in tam amplis modo & forma prout ea omnia & singula præmissa aut aliqua inde parcella ad manus nostras &c. deuenierunt, ac in manibus nostris iam existunt.

Et, si laduowlson appendant al dit Manoz de whitechurch passeſ per ceut letters patentz ou nemy, suit le question. Et diuers obiections fueront faitz al barre que laduowlson ne passeſ: 1. Pur ceo que nul expresse mention fut fait del aduowlson, & est enact per lestatute de prærogatiua Regis cap. 15. Quando dominus Rex dat vel concedit alicui manerium vel terram cum pertin', nisi faciat in charta sua vel scripto expressam mentionem de feodis militum, aduocationibus ecclesiistarum & dotibus cum acciderint, ad prædict manerium vel terram pertin', tunc hijs diebus Rex referuat sibi eadem feoda & aduocat' cum dotibus, licet inter alias personas non fuerint obseruata. Et in cest case le Roy ne fust expresse mention del aduowlson. Le 2. reason fuit, que quant le Roy præmierment grant le Manoz de whitechurch, cum pertin', sans faire mention del aduowlson, & tant in iudgement del ley cōe si laduowlson y expesse pols vst este except, & donques q̄nt per le darrein clause le roy grant prædict manerium cum pertin' ac cætera omnia & singula præmissa superius per præsentes concessa cum eorum pertin' vniuersis, adeo plene & integre &c. cest parol (prædict) ad reference al manoz mention deuant, q̄l manoz fuit graunt fauns laduowlson, & pur c̄ cest clause esteant restraine per cest pol (prædict) & p ceut parols (& cætera omnia & singula præmissa superius per præsentes concessa) laduowlson ne passeret, & bntce p aduenture (cōe fuit dit) si in un̄ m̄ clause le roy ad grants totū maner nostrū de Whitechurch in com' nostre Oxon' adeo plene & integre, & in tam amplis modo & forma prout idem manerium ad manus nostras deuenit & modo in manibus nostris existit, & puit passer. 3. Fuit obiect q̄lo original grant est restraine per cest paroll (illud) manerium, & per ceut parols subsequents, cuiusdam

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cuidam Willielmo Smith per literas patentes, exceptis quæ in eisdem literis patentibus excipiuntur, mentionat fore dimissa & concessa, in quel demise al Smith la duowlson fuit exp̄lēdit except à illis s̄ le master per cest reference la duowlson est except hors de cest grant. La 4. obiection fuit, q̄ ceut parolz exceptis quæ in eisdem literis patentibus excipiuntur, sera exceptis hors del grant del roy que oze est, & doncques encounter lez p̄res exception les generall parolz apres ne passeront ero; car construction doit este fait sur toutes les lettres patenties que un part poer estoier oue lauter.

C A que fuit r̄nde & resolue p̄ le Court, q̄ q̄fit le Ch̄te le roy in general termes referte a buncertie, c̄ conteine cy express mention, c̄de si le certaintie b̄t este exp̄resse in tñ le Ch̄te, comment q̄ le certaintie a q̄ le reference est ne soit de record, m̄s ḡst in auerment p̄ matz in pais ou in fact. Et p̄miersit fuit consider q̄ fuit le ley in cest case devant le stat de pr̄rogatiua regis, & fuit agree q̄ devant cest stat si le roy b̄t grant un manoz a que un aduowlson fuit appendy sauns faire mention d̄l aduowlson, ou sans dire cum pertin, q̄ la duowlson passe, & il s̄line est le lñtre adiudge in 43. E. 3. 22. q̄ ou le countee Marshall fuit seisle del manoz de A. a q̄ un aduowlson fuit appendant, & done ist le manoz al roy H. 3. a luy & a ses heires, pur q̄ done le roy graunt a luy & ses heires 50. markes per annum tantq̄ il luy enesse de tant d̄ terre aux p̄leinment & intierment c̄de il auoit le manoz de A. De son done, & puis le roy H. don meill le manoz de A. (a que la duowlson est appendy) sans dire cu pertin, al dit countee Marshall & ses heires pur ist les 50. markes, & pur c̄ q̄ le manoz valust plus p̄ C. s. tend C. s. per an. &c. & cont q̄ le Ch̄te le roy H. 3. ne parle riens de pertin, ne de ses feesne de aduowlsons, bñc fuit adiudg q̄ la duowlson passerat, & Mowbray chiefe Justice reheatle cont q̄ le roy H. 3. auef done le manoz sans dire cu pertin, a q̄ temps la duowlson passerat p̄ done le roy c̄de p̄ done daul commo person, & tout temps devant lestat de pr̄rogatiua regis, le quel stat fuit in temps d̄l roy apel le roy q̄ oze est, il s̄lit que tout temps devant la duowlson passerat per tiel done, per que iudgement fuit done que per le dit grant le roy H. 3. del manoz la duowlson passe, & il s̄lit la est tenus que devant le dit stat p̄ grant d̄l roy dun man le tems per escuage passe, & q̄ tout c̄ est p̄due p̄ le dit act ist, quel act ad alz le commo ley, car les gols de c̄ sont tunc hijs diebus rex reseruat sibi ead' feoda & aduocation Ecclie &c. et le lñtre dit il sit est c̄ p̄ue a les gols (hijs diebus) commēce le p̄erogative:

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Et que ceo accord 44. Edw. 3. 20. q per testement del maner p
common ley sans dire cum pertin aduowson passera, & comit
que le testement soit per patroll labuonson passera: & que ceo
accord le lture in 39. Ed. 3. 21. q devant cest statute labuonson
passera. Vide 19. Ed. 2. Breue 844. 8. H. 7. 4. 18. Ed. 3. 15. Et est
deste obserue q laet de prerogativa regis ne restreine forsiz les
dits 3. cascs g. aduowlons, seruice de Chrs, & indument
des femeys; Car Leet passera sans expresse mention ou poys
equipollent, come est tenu in 18. Hen. 6. 12. tllint passel for-
rest appendant al honoz, come est agree in 26. Aff. pl. 60. in la
ley de corrodie appendante al patronage dun prlorat, come
appiert in 26. Aff. pl. 63. & sic de similibus. Auty les paroles
de cest act sont, Quando Dominus Rex dat vel concedit, & puis
ceo in case de restitution aduowlons a seruice de Chs passel
sans expresse mention de eux ou parois equipollent, come in
llyery al heites; 2. in restitution del temporalies al succent.
de lieux, & semblables, 41. Edw. 3. j. 27. Aff. 48. Pl. Com. in
Seignior Barkleys case 251. 252. 20. Eliz. Dyer 306. acc. Mes
la Thorpe chaste Justice dit in in le plea, q si un manoz a que
un aduowlon soit appendant soit in le maine le roy per el-
cheat ou per purchase, si le roy a cest iour (puis le dit act de
prerogativa regis) done le manoz a un home auty entierement
come un tel roignoit devant que il viene in nostre maine per
voy descheat, ou come un tel roignoit que nous enstelle, que
labuonson passel sans dire in le Chs cum scodis & aduocat,
& le cause est puis ceo que le ley intend in tel case que le Roy
est apprise de son droit: quod curia concepit. Per que est dest
obserue; 1. q comment que le reference in le Chs le Roy soit al
matter in fait ou in pais, que si le verite soit que labuonson
soit appendant, que ceo passel, car in iudgement del ley, ceo
est equipollent al expres mention del aduowlon (come testa-
tute parle) in le Chs: 2. comment que le roy grant le Manoz
solemement sans dire cum pertin) auty entierement st. vno
labuonson passera, & que ceo accord 6. E. 3. 32. John Daryes
case, que si home ad manoz a que aduowlon est appendant &
franchise dauer forseitures & autz franchises deins le man-
oz, & puis le manoz devient in les mains le Roy per forse-
ture de guerre, et puis le Roy done le manoz a tenir que les
franchisez q tout temps fuet regardé al dit manoz che un tel
tier, si auoit l'z franchises, & la sre Will. Herle dit, q si un no-
uel grāt, car legfranchisez (que gisont in point de Chs) fuet a-
venue a la Corone, In que primement est deste obserue, que

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Si home admanoz deins quel manoz les owners de ceo anoint franchises que gisont in point de Chre come forfeitures pur treason & autres royal franchises, & puis le manoz oue les franchises devient in les maines le roy, & le roy grant le manoz oue les forfeitures de treason & autres franchises que fuet regardé ou pertinant al dit manoz come vn tiel tient, que tous les ditz franchises passeret, & ceux parols queux fuet regardant ou pertinant al dit manoz serer pris in cest lence q fuet loyalment enoy deins le dit manoz auxy entretenué come vn tiel auoient eux, & buncō soloncz le strict propriety des pols tiel franchises ne poient este pertinant al manoz. Mes tiel construction que ferra le boyer intention del roy expresse in s Chre a prendre effect est pur le honoz del roy & estoit oue les rules del ley: et pur ceo cest paroll (pertinant) sera in tiel casse in grant le roy pris hors del proper signification, 2. Est deste obserue, q in m le casse tiels franchises que gisont in point de Chre passeret come p vn nouell grant, a fortiori franchises appendet ou pertinat al manoz, cōe aduowsons, faires, marchets, warrens, &c. (que tous foiz continue in elle et ne fuit extinct in le Corone) passeret. Est dit in Pl. Com' in Fogasses casse 12. b. Si le roy a ceo tour grant ouster certaine terres que ont venus a ses maines devant, & grant ouster al grauntee tales libertates, priuilegia, iurisdictiones &c. que cestuy auoit que darreinment fuit leissie des ftes ou le roy ne scauoit le certainty des liberties & priuiledges, bncē le grant est assets bone, & le patentee poet requirer que liberties & priuiledges laut auoit devant, & intant q cest incerteintie poet este reduce a certeintie per inquirie ou aut circumstancce, le grant est bone. Vide le casse de Strata Mercella in le 9. part de mes Reports fol. 24. & vide 18. Eliz. Dyer fol. 35 i. cite icy apres.

Quant al 2. objection fuit r̄fude & resolute, q boyer est que si le dit clause de adeo plene & integre bst este omise &c. q donques laduowlson nust passer p primer clause; mes per laddition del darreinme clause tous les parts des letters patents preignant effect a vn m temps laduowlson passeret appendat: & cest paroll (prend) ne restraine le passing del aduowlson, mes describe quel manoz ceo est, et donques le addition de ceux parols (adeo plene et integre et in tam amplis modo et forma) expresse intention del Roy a passer ceo auxy entremettre come le manoz bient a ses maines, ou autrement les ditz parols adeo plene &c. ne prendront droit et genuine effect: q ne bncē fuit view in alcuns lcs patents que les ditz

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dits parols de adeo plene & integre, &c. veignet in le primer clause del graunt, mes in un nouel clause aparluy, et doneques in le darreine clause cest parol (prædict.) est tous foitz adde; et issint in veritie le case fuit in 18. Elixab. Dyer 350. & 351. Car appiert per les letters patents del Roigne Elizabet in le dit case mentign, que le Rectorz de Westbodwin a q̄ la duowlson del vicarage fuit appiedant vient al roy per attaider del E. pur felonie a fuit conceale, le Roigne Elizabet grauut totam illam Rectoriam de W. in comitatu Wiltescum suis iuribus, membris & pertin' Vniuersis, necnon omnia & singula mesuagia &c. & hereditamenta parcell' spectan' siue pertin' dictæ Rectoriæ: Et ulterius &c. Concessimus prædictara Rectoriam cum pertinentijs cæteraque præmissa cum pertinentijs adeo plene & integre & in tam amplis modo & forma, quantitate & qualitate prout &c. le felon auoyt ceo, et comment ceo auyent a les maînes, & adiudge que la duowlson passera launs expresse ou speciall mention; auxy, les parols fueront ex certa Scientia & mero motu, & issint le Royne nient deceive: que esteant un iudgement in le potent, consonant al resolutions in auncient iours, & concurring oue commun experiance et opinions de homes erudite. Ceo ne fuit digne de aucun question. Et sur ceo fuit conclude, que si le Roy eyt le manoz de D. in le Countie de Northumberland et aucun des rents et seruices extend in Cumberland, & le Roy graunt le manoz de D. in le Countie de Northumberland, et omnia & singula mesuagia &c. redditus, seruitia, & hereditamenta in dicto Comitatu Northumberland seu alibi parcell' prædicti Mannerij &c. Que les rents et seruices in le Countie de Cumberland passera. Car (prædict) nest forisque description del Manoz, ex ceux parols aut alibi couient dauer aucun effect: Et pur ceo in tant que in tiel case tous les parts del Chartre prendront effect a un temps, Cœux parols aut alibi sera in iudgement del Ley annexe al primer clause, & sera de tiel effect come si le Roy ad graunt le Manoz de D. et tous rents et seruices parcell de mesme le manoz in le countie de N. aut alibi, & ceo estoit oue le rule de bone construction, cestassauoir, a faire tous les parols des letters patents solonque le hoier intention del Roy expresse in eux a prendre effect. Quant al 3. obiection, comment que le primitif clause de grant restert al demise in q̄ la duowlson est except, bñc per le middle clause tous tenemēts ac. pteinant al dit manoz sont graunt, & le darreine clause grant le Manoz
oue

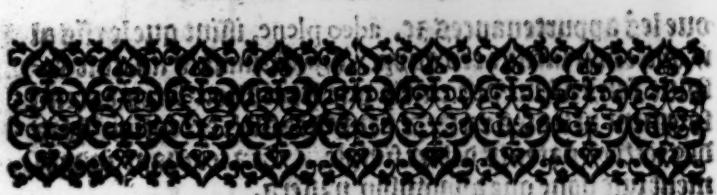
VWhistlers cafe.

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que les appurtenances ac, adeo plene, illint que le r̄is si
n̄ obiecton satisfie ces auxy. ¶ Quant au r̄is fait ce-
volue sans aucun difficulte que le precepteur fera excede-
siblement al leales recte, et membre des deux epoux. Mais
des letters pacents del seu simple. Et accomplant inde-
mement fait done que aduot son paillera.

Introduction

Triň



Trin ii. Regis Iacobi.

Le case del Gardens del Esglise de S. Saujour in Southwarke.

In Informatione de intrusion pferre in le Court del Exchequer per lattozney le royst que est entre Hill's. Iacob. Regis Ro. Cxxij. vers Thomas Haryn, John Marshall, Abraham Grene, & auters, pur intruding in le Rectory del Esglise parochiel de S. Saujour in le county de Surry 9. Octo. anno 3. regni Regis Iacobi &c. sur tien enip' plead les Jurors donont especiall ydit a cest effect. Que le Roygne Eliz. fuit seisse del dit Rectory in son demesme come de fee come in deff de son Coronation, & per ses letres patent's porz date 22. Feb. anno. regni sui 27. demisa al gardens del Esglise parochiel de S. Saujour de Southwarke (queux per tiel nosme fueront incorporate per act de Parliament in anno 32. Hen. 8. & iust troue) le dit Rectory del feast de Saint Michael ad oques Darreine passe pur 21. ans, per force de que ils entront & furent ent possesse, & puis le dit Roygne per ses auters letters patent's porz date 28. N ouemb. anno regni sui 33. recitant le dit lease, per predictas literas patentes port' date 22. Februarij an' dicta nuper Reginæ 27. confect': quas quidem literas patentes, & totum statum, titulum, intereste, terminum annorum adhuc futur' de & in præmissis, dilesti subdit' nostri Thomas Norton &c. gardiani dictæ Ecclesiæ parochialis modo habentes, & ad præsens possidentes nobis sursumreddiderunt et restituerunt cancelland', quam quidem sursumredditionem acceptamus per

pre-

presentes ; sciatis igitur quod ad humilem petitionem gardianorum & parochianoru[m] dicta eccl[esi]æ sancti Salvatoris de Southwarke, tam in consideratione sursumredictionis predict. quam in consideratione quod predict. nuper gardiani ecclesiæ parochial[er] predict[us] post datu[m] dictarum nostrarum literarum patentium superius mentionat, vnam sufficientem domum aptam & conuenientem pro schola grammaticalib[us] ibidem tenend' infra parochiam sancti Salvatoris predict[us] pro eruditione pueroru[m] eiusdem parochie sumptibus eorum & expensis erexerunt & edificaerunt, necnon pro fine 20.l. legalis monetæ Angliae ad receptum Scacc'ij nostri, ad usum nostrum per prefatos modo gardianos solut' demise le dit Recto[r] aux dits Thomas Norton &c. ore gardens del dit Esglise, del feast del Annuntiation de nostre dame & donques darreine passe pur le terme de 50. ans, et troue ouster que les dits gardes al temps del confectio[n] del dit lease pur 50. ans surrender a yeeld by les dits letters patent[es] de anno 27. Eliz. deste cancell[er], et abonques paia al officiers del court le Chauncerie les fees due pur cancellation de ceo et feasaunt del vacat fuit del inrolement de ceo, & que ils abonques fueront possesse del residue del dit terme de 21. ans mes nul vacat fuit fait del dit inrolement des dits letters patent[es], & que les dits defend[er] a auters esteant gardens ont enter in le dit recto[r] per force de cest darreine lease p[er] tempore quo, & si lentre les dits defendants co[n]c[on]de gardens fuet cogitable in ley on nemy, fuit le question. Et ce case fuit souuent foit argu[er] al barre in divers seual termes, & ore in cest tme fuit atque per sir Ed. Bromeley, sir Iames Altham, & sir George Snigge, Barons del Eschequer, & sir Laurence Tanfield chiese baron. Et in ce case 3. pointes fuet resolute. ¶ Primerement, q[uod] ne besoigne a[cc]tuel surrend[er] in ce case, pur c[on]tra ceur pols modo habentes & ad presens possident &c. proua q[uod] al temps del cōfession des dits letters patent[es] les gardes del dit Parish auoient le dit terme pur ang in eux, & pur c[on]tra appiert expressement, que l'intention del ro[is] ne fuit que eux serent aucun surrend[er] devant le patent, mes que per l'acceptans des l[et]s patent[es] ils ayant abonques le tme in eux lour estate p[er] anz serent surrend[er] : Et ou les pols sont, sursumredderunt & restituer' &c. in le p[re]terperfect temps, est deste obserue que les pols sont modo habentes & ad presens possidentes sursumreddiderunt & restituer' &c. q[uod] hoire est in construction del ley ; car in iudgement d[e] la ley le surrend[er] p[re]cede le nonel lease, & in multe cas[es] le p[re]terperfect temps est prise pur le present temps, come dedimus et

Le case del Gardens,&c.

concessimus pro datus & concedimus &c. a quel surrendre in ley le Roy expresslement agreea per ceutz parols, qnamquidem sursumredictionem acceptamus: et per ceo le roy nest dectue, ne prejudice in estate, interest, value, ou remedie, et comment que les lesses fueront corporation aggregate de plusloz, et ne poient faire expresse surrendre sauns fait in escript desouth lour seale, vnoze ils poient per act in ley surrendre lour terme sauns aucun escript, car Fortior & potentior est dispositio legis quam hominis, come in 37. Henr. 6. 16. si home ad interesse termini pro termino annorum a commencer a Mich. il ne poet expresslement surrendre cest interess, mes si prixt nouvel lease pur anz, cest acceptaunce est surrendre in ley del primit lease: Illint si prior ou le consent de couent fait lease pur ans rendant rent, si le prior per fait expresslement release le rent et morust, le successoz reconera les arrearages, mes si le prior ouste le lessor et morust, cest discharge in ley dischargera le rent que incurre durant le ouster vers le successour, come appert in 34. Henr. 6. 21.

Et cest construction, et nul autre, estoit oue les parols et intention des ditz letters patents. Mes si deutz constructiuns poient este fait del graunt le Roy, donques le rrule est, quant ceo poit receiner deutz constructions, et per force duns construction le graunt poit estre solonque le rrule del ley adfudge boide, et per autre que ceo sera per la ley pris le boide, donque pur le honoz del Roy et le bencifit del subiect tel construction sera fait que le chartre le Roy prendroit effect, car ne fuit intent le Roy a faire boide graunt: et oue ceo accord Sir John Molins case in le 8. part de mes Reports. ¶ 2. Fuit resolute, que le delivuerie fait per les gardens des ditz letters patents in le Chancery deste cancell &c. (que fuit part del consideration) per lour maines sauns escript fuit suffisant et tant come ils dootent faire, et appent al seigniour Chancellour ou les officers dauer cancell eux; et chescun doit faire ceo que a iuy appent. ¶ 3. Fuit resolute que ne besoigne a trouer le paiment del dit 20.£. que fuit un des considerations del lease, car ceo nest que summe dargent in le parsonalite, & affirme per le roy deste pay et satisse in temps devant le patent, et illint consideracion personell executed: et oue ceo expresslement accord 37. Henr. 8. titul' Patents B.4.

Nota Lecteur, ieo ay bieve divers auters letters patents faitz

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faits sur autiel consideration, et aynt tiels paroys modo
habens & possedens, & en nul de engt asygn asygn furendre su-
it bnyques fait. Vide Barwicks case in le 5. part desmes Reportes
fol. 93. 94. Vide in le case de Alton wood in le 2. part desmes Re-
portes, interz queys et le caske al bunt le Denetelle appelle.

Mij.

Mich.

Mich. Iacobi Regis.

Le case del Marshalsea.

Rich. Hal post actio de trn's assault, bat-
terie, wounding, & faux imprisonmēt vs
william Stanly, william Richardson,
& Roger Cante, que ils i. Jan. anno 7.
Iac. reg. assault, naufr, wound, & impris-
on, & in prison detaine per le space de 3.
mois &c. les def. quant al tout le temps
forisque lassault & imprisonment & le deteinre de luy in prison
plead non culp. & quant al dit assault & imprisonment &c. le
dit william Stanley & william Richardson disoient, quod
curia dom. regis vocat curia marischalciae hospitij domini regis,
est antiqua curia ipsius domini regis & progenitorum suorum
regum Angliae, & quod eadem curia tenetur, & à tempore cuius cō-
trar memoria hominum non existit, tenebarur, & teneri consuevit
infra virgam &c. coram seneschallo curia marischalciae & maris-
challo hospitij domini regis pro tempore existen', & que mesme
court de temps dont &c. auoit iurisdiction a tener pleas de
trn's, & trn's sur le casse infra hospitiū pred. & infra virgam eiusdē
hospitij fact', & p tour le dit temps deins la dit court la fueſ tam
quid. mariscall' marischalciae hospitij pred. quā quid. officiar' de
le baston infra virgā hospitij dicti domini regis, qui quidem ma-
riscall' marischalciae hospitij pred. & officiar' de le bastō pro te-
pore existen' sūt & per totū idē tēpus fuerūt officiarij, & ministri
cur' pred. & quod omnia brevia & præcepta eiusdē cur' dirigend.
sūt, & per totū tēpus predictū direct. & dirigi vſitar' fuerūt, eidem
marischallo marischalciae, quod ipſe idē marischallus marischalciae
per se, & predicti officiarij de le bastō per eius mādatū oꝝ tenus
fact.

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fact' habent, et a toto tempore supradict' habuerunt et habere consueverunt executionem & return' omnium & omnimodorum breuium, præcept' & warrant' quorumcunq; a curia prædict' emanant marisco mariscalcie prædict' direct', & ijdem Willmvs, Willm vs & Rogerus vltierius dicunt, quod in curia predicta habentur & toto tempore supradicto habebatur talis consuetudo, viz. quod si aliqua persona existen' def. in aliquo placito transfr' in eadem curia penden' & in custodia mariscalli mar' hospicij existen' fuit tradic' in baill', & prescribe a layster le defendant al baillie, & que le dit Willm Richardson deuam le trespass a bnoce est mareschal del marshalsea del houſhold, & le dit Willm Stanlye officer de le baston, & que le dit Roſ Cante deuant le trespass cestassauoit, 21.Ian.5.Reg.lac. in le dit court del marshalsea del houſhold deuant Thomas Warre ac donques steward del dit court, & Thomas Wauasor chlre adonq's marshall del dit houſhold, al Southwarke deins le countie de Suff deins le bierge ac, & la exhibit un bill enuers un Tho. Ownſtead adonques in le custodie del marſhall del marshalsea di dit houſhold de plea de tris f' f' case, & sicut q̄ ou le dit Tho. fuit inder al dit Roſ in 80.l. p divers sumz des deniers p le dit Tho. al dit Roſ due, & iſſut eſteane inder le dit Tho. 1. Ian.an.5.lac.Reg. al Mlningtop deins le bierge assume a paier al dit Roſ les dits 80.l. f' c: quest, le q̄ il a mad fait ac, sur que le dit Tho. fuit laise al baillie, & le dit Rich. Hall & un Rich. Petty deueigne ſ baillie; a q̄ declarat le dit Tho. Ownſtead plead Non aſſumpſit &c. q̄ il iſſue fuit erie p le pl & aſſeſſe damages & costes, sur q̄ le pl in m le court ad Judgement, & le pl f' ce Judgement pſue un pſcep'e in le nature dun Cap. vers le dit Tho. Ownſtead al marſhall del marshalsea del houſhold direct, q̄ retoſe Non eſt inuentus, f' q̄ le adonq's pl purlue un pſcep't in l nature dun Cap. a pñder le corps di dit Tho. Ownſtead, ou del Rich. Hall & Rich. Petty folonq; le custōe di dit court, ad ſatisfaciend' &c. direct al marſhall del marshalsea del dit houſhold, p force de q̄ le dit marſhall del marshalsea ore tenus command le dit Willm Stanley a execut le dit bſe, p force de q̄ il arrest infra virgam &c. le corps di dit Rich. Hall, & deluer lui al dit Willm Richardson marſhall ac, in execution ac. q̄ lui deteine in pſton del marshalsea al Southwarke infra virgam in execution ac. Le plaintife replie a dit, quod nec predictus Rogerus Cante in placito predicto querens nec predictus Thomas Ownſtead in placito predicto de tempore exhibitionis billz predict' fuit seruſ ſeu ſerui dicti domini regis,

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ſeu

Le case del Marshalsea.

Seu de hospitio suo prædicto existen' &c. Sur que le def. demurez
in ley. Et cest case fuit souuent sois argue ai barf, & 2. pointz
fueront moue : 1. si action sur le case sur assumpc'on pur paimet
dun det esteant fait deings le vierge soit deings le turisdiction
del court del marshalsea : 2. admittans que ceo ne soit, don-
ques si les defendants ayant le garaunt del dit court sera
punie per faulz imprisonment ou nemy. Et mult fuit dit per
eux que fueront accounzell oue le court del marshalsea pur le
antiquite, honoz, & turisdiction del court del marshalsea, pur
le antiquite, que ceo est cy quntient come ascun court le roy,
come appiert in 4. H. 6.8. 3 diuersitie des courts tic' Marshalsea,
pur le honoz, que Flota lib. 2. cap. 2. procheine apres le haut
court de parliament adde, Habet & curiam suam coram Seneschallo
suo in aula sua &c. & Britton cap. 1. que est in son livre, in
le person le roy commence oue le court del marshalsey deuant
ascun autre, in ceus parols. Et que le marshall de nostre Hos-
telle teigne nostre lieu deins le vierge &c. & voslomus que le
countee de Norff. per luy ou per autre thivaller, soit enten-
dant a nous & a nostre Seneschall, a faire nous comman-
dements & leg attachments & les executions de nous Judg-
ments & de nostre Seneschall per la vierge de nostre Hostel,
in que fuit auxi obserue pur le honoz del court, & lez Judges
teignont le lieu del roy, & que home de tel dignite come le
countee de Norff. est attendant al dit court ; & sis disoient
ouster, que cest court fuit de cy hant turisdiction que deuant
le statut de 5. E. 3. cap. 2. & 10. E. 3. cap. 2. que nul brieve Derror
gist dascun Judgement done in ceo mes in parliament, & p mi
les statutes lour erroz sera examine & redresse in banke le
roy ; Et come appiert per Flota, cest court dauncient temps
pur le greinder honor de cest fuit tenus in aula regis deings le hal
del honorable housbold le roy.

Le 1. point.

Et quant al turisdiction, ilz disoient que deuant le statut de
Articuli super cartas cap. 3. que le court del Marshalsea oint
turisdiction deings le vierge des pleas del corzone ou criminal
causes & de tous commun pleas, reall, personall, & mixte, &
que deuant le dit statut le Seneschall & Marshall del Hos-
telle le roy blont a tener tous les pleas auant ditz deings le
vierge, comment que nul des parties fuet del Hostell le roy, &
ore le dit act ad restraine eux a 3. actions solement, cestassauoir,
contractz, couenantz, & trespass, & ceo in 3. distinct
manners, cestassauoir, in contractz & couenantz quant am-
bidexz sont de Hostell, & in trespass quant lun part ou lautre

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solt del Hostie, 3: dauters trāgs faitz deins le vierge quāt nul des parties soient del Hostie; 3 ceo estoit oue les paroys del dit act, cestassauoir, lorsque tansolement del trespass del Hostie, 3 dauters trespasses faitz deins le vierge, 3 les contracts et couenantz que aucun del Hostie le top auer fait al auer de mesme le Hostie, issint que per expres paroys ilz ont power non solement del trespass del Hostie, mes auxy dauters trespasses deins le vierge, 3 q̄ les d'arreine paroys que aucun del Hostie 3c. auer fait al auer de mesme hostie, auera relation solement aux contracts 3 couenantz, 3 nemys al clause concernant trespass, car donques ceux paroys (3 des autres enus faitz deins le vierge) sont boide, car il parla primē des trespasses del Hostie, 3 doncq̄ il le d'arreine clause auera relation al clause del trespass, mesme le clause 3 des autres enus faitz deins le vierge sera boide, 3 glossa viperina est que corodit viscera textus. Et ilz reliont fortement sur un act de parliament faitz deins 2. ans apres le dit act de 28. E. I. cestassauoir, in 30. E. I. nient in print, mes remaine in le treasony, que est bone exposition del dit former act, per que est enact que lou deuant le Seneschall 3 Marshall, le court esteant plusors foiz p̄s le citie de Londres, alcuns inquests soient pris de trāgs 3 autres choses faitz deins le dit citie, enter alcuns de mesme le citie tansolement, 3 inter eux 3 forcez nō jointement, ou inter forcez, 3 de hux trespasses 3 autres choses al Seneschall 3 Marshall per reason del vierge le comusang appent, que tousz tels inquests sera pris deins le citie de Londres, 3 nemys ailleurs; sur que fuit infere, que de tousz trespasses faitz deins le vierge inter quelconqz persons, le comusangs appent al steward 3 marshall del hostie, quel est exposition per le haut court de parliament, et contemporanda expositio est fortissima in lege, issint que cibien deuant lestatute de 28. E. I. come per les paroys de mesme lestatute, 3 per lart de 30. E. I. le seneschall et marshall del hostie ouint iurisdiction a determiner tousz pleas de trespass inter quelconque persons. Et ilz citont auxy lestatutes de 5. E. 3. cap. 2. 3 10. E. 3. cap. 3. per queux appert, que le court nad iurisdiction solement de trespass del hostie, mes auxy dauters trespasses. Et ilz teignone que cest parol (trespass) sera extend beneficialment pur le iurisdiction del dit court, pur ceo que lour auctorite iurisdiction fuit tant restraine per le dit act, 3 pur ceo semble a eux que toutes actions lentre de queux est in placito transgressionis &c. sera deins cest parol trespass, 3 pur

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ceo pleas de Eiectione firme, Trespas quare clausum fregit, des bieng importz, assault, batterie, wounding, trespass sur le case, sur trouer, & assumpst, & auters trespasses sur le case serc pris deins cest parol trespass, & le iurisdiction de ceo appent al soneschall & marshall del hostile, comment que nul des parties soit del hostile le roy. Et ils concludont, que infinit presidents poient este monstre tout temps puis le fealangs del dit act de 28.E.1. que ils ount tenus pleas de trespass, et bien trespass sur le case, come auter deins le bierge, comment que nul des parties fuet de hostile le roy, optimus legum interpres consuetudo.

Le 2. point.

Et quant al auter point, admittant que le court nad iurisdiction del cause, vnoze le proceeding in ceo (estat court de record) nest pas voidre mes voidable per brieve de Error. Aury le marshall del marshalsea hostile, & le officer de le boston, sont officers & ministers del court, & serc encounter reason a punier eux p'executing del precept & garn del court, quat ilz vloont refule le court voille auer punie eux pur lour disobeissance, & pur ceo le rule est, Quicunque iussu iudicis aliquid fecerit, non videtur dolo malo fecisse, quia parere necesse est: et in 26E. 3.70. la est prise pur vn maxime, que le chose que vn officer fait per garnant on precept dun court ne poet estre dit encounter le peace: i Doct.& Stu.fo. 150. les officers le roy sont tenus executer les bches le roy a lour perill: & ils ciront & fortment vrgeont le liure in 7.E.3.fo.23.& 24. ou Alice port vn action de trespass verz vn William. de faux imprisonment, le defendant dit que devant le imprisonment command fuit in le marshalsea, que si nul feme suist le hostile nostre seignior le roy que il serc pris et imprison, & cesty Alice suist le hostile le roy, per que John Claidon adonques marshall command cesty William que est gaolet de luy preder, per que il luy prist per son commaundement & per tiel cause, & nentendomus q il poist tort in nostre person assigner & la le rule de liure est, que William le def. fist nul tort tout rescenst il luy, le quel le cause fuit allowable ou non, car couet que il soit obeisant a son soueraigne, mes tout temps le gaolet doit receiuer quil que soit maunde a luy per son soueraigne soit le cause de la prisie auowable ou non, & la issue fuit pris le quel le defendant auoit le plaintif del delituerie del marshall. Il est in le case al barre les officers del court ne sont a disputer lour authozitie, mes doient este obeisant & execute les garnants et preceptes del Judges del court: & sur cest groudz les liures sont

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sont in 8.E.3.38.17.E.3.66.19.E.3. Quare non admisit 7. Plow. Com. Morgans case 12.13.7.H.4.27.11.H.4.35.9.H.6.20.2. R. 3.10.21.H.7.22.14.H.8.16. Videtemps E. 1. Aff. 402.32. E.1. ibidem 378.17.Edw.2.Aff.373.19.Ed.3.Scire fac 12.31.Aff.19 10.Edw.3.47.14.Hen.4.24.21.Edw.4.66.21.Henr.6.36.21.H. 6.Trn's 50.

Mesme sur soleilne argument al bench fuit buelement resolute que Judgement serf done vers les defendants.

C Et quant al p̄m̄ point fuit diuide in 5. parts. 1. Quel jurisdiction le court del marshalsea auoit al common ley devant le dit act de Artic' super cart anno 28.E.1. ex in ceo lectet de lour jurisdiction fuit consider, cestassauoire, 1. in queux actions le court auoit jurisdiction, 2. a quel lien lour jurisdiction fuit circumscrire, 3 a queux persons lour jurisdiction extende.

2. Les reasons pur quoy le common ley done a eux come Judges del court del marshalsea tel particular et limited jurisdiction.

3. Consideration fuit ewe del dit act de Artic' super cart et in ceo 3. points fueront discusse, 1. pur quoy cest act fuit appel Artic' super cart. 2. quel manner del act deo fuit, ou introductozie dun nouvel ley, ou declaratozie del auncient, 3. lez sevall parts del act fuet consider.

4. Les authozities del ley in toutz successions des ages puis le dit act.

5. Le nature de cest action sur le case sur assumpst.

Quant al p̄m̄ est ascauoir, que le seneschall & mareschall del hostie le roy auoient devant le dit act 2. distinct authozities, tſi ils ont tel genial authozite in effect come Justices in eire auoient, car ils fuet les vicegerents in part del chiefe Justice D'engleterre deins le bierge. Auyx le seneschall et marshall ouint auter authozite, cestassauoire, a tener le court de marshalsea, le title de quel fuit Placita coronæ Aulæ hospitiij domini regis coram seneschall & marischallo. Per force de lour p̄m̄ authozite, ils poient tener toutz maners dez pleas del corone, & de common pleas, auxibien real & mixte come personel, et ceo appiert per diuers auncient p̄ceptz des sommons que tſi volont a directer al bise ac. a faire bener devant eux toutz pleas ac. le foizme de quel fuit tiel; Robertus filius Iohannis miles, seneschallus hospitiij domini regis vicecom', S. salutem: Mandamus quod venire fac coram nobis tali die vbi eunq; dominus rex tunc fuerit in balliuua tua omnes Affissas nouæ diffeisinx;

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dissensis, mortis antecessoris, vltimis presentat, magnas Affisas, & omnes iuratas, inquisitiones, & attinctas, & omnia placit de dote. Vnde mulieres nihil habent & que summa sunt coram Iust. regis ad primas Affisas cum in partes illas venerint, immo & omnes Affisas illas & placita illa iuratas, inquisitiones & attinctas illas que coram Iustic' regis ad Affisas capiendas in balliuā vestra assignatis fuerint attamizas & non finite. Et partibus diem illum prefigatis quod tunc sint ibi Affi. illas & placita illa iuratas & inquisitiones & attinctas illas in eodem statu quo remanserunt coram prefat. Iustic' profecut si voluerint. Venire etiam fac' coram nobis dictis die: & loco omnes prisiones & manucaptos de balliuā vestra, et omnia at-tachiamēta que pertinent ad gaolam deliberandam. Fac' etiam proclamari et sciri per totam balliuā vestram quod omnes liberi & quatuor homines & pr̄positus de villatis quar. interfuerit, quod tutū sint ad deliberationem predictam. Et habeat ibi Recognitores, nomina Plag', Summ. & hoc breue.

Et que illos ount tel generali authoritie aperte in Flēta, que estrie de uant le dit art de 28. Ed. 1. lib. 2. cap. 2. Habet & rex curiam suam coram seneschallo suo in aula sua, qui iam tenet locum capitalis Iustitiarij regis (de quo fit mentio in communi breui de Hoie repl') qui proprias causas regis terminari consuevit & falsum iudicium ad veritatem reuocare, & conquerentibus absque breui iustitiam exhibere; cuius vices gerit in parte idem seneschallus hospitij regis, cuius interest de omnibus actionibus contra pacem infra metas hospitij &c. recehēt illatis & sine breui &c. auditis queremonijs iniuriarum in aula regis audire & terminare assumpt. sibi camerar' hostiar', vel mariscallo aulæ, militibus, vel aliquibus eorum, si omnes interessē non possunt. Et cap. 3. Habet seneschallus ex virtute officij sui pr̄dictam potestatem procedendi ad visitationes & bella iniungendi, et omnia & singula faciend' que ad Iusticiarios itinerantes, prout superius distum est, pertinent faciend', hoc tantum excepto quod cle libero tenemento intromittere non debet sine breui. Et la aperte que le seneschall et, leignont est court in aula reg. & quiel authoritie Justices in Cite auoient a tener toutz pleas del cozone & toutz common pleas, real, mixt & personnel, poies veier in le Mirror des Justices cap. 2. S. 3. ou est dit, Les royes font droit a toutz personnes Justices Commissaries errants assignes a toutz pleas. Vid' lestatute de W. 2. cap. 11. Bracton lib. 3. cap. 7. fol. 105. &c. & fo. 115. b. Britton ca. 1. 6. E. 2. AffiseB. 496. 4. E. 3. 41. 42. 6. E. 3. 55. 2. 7 Aff. p. 1. 15. H. 7. 5. b. Et est desse obserue, que testy que est pr̄soner al bank le roy est in custodia mareschalli mareschalcie domini

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mini regis, & cest que est prisoner al marshalsea del hostile en
in custodia mareschalli marischalcis hospitij domini regis. Et per
ceo appiert auxy, que le seneschall ac, vices gerbar capitalis
Justiciarij: & que ceo accordz Britton cap. i. que escrie in s. E. i. q
escrie deuant lestatute de Artic super cartas, Et qd le marshal
de nostre hostile teigne nostre lieu deins le bierge de nostre
hostile, & que son office se extend a oier & terminer lez p̄sente-
ments & chaptiers de nostre corzone quant nous beiomous q
bene ferro. Et nota que ceut chaptiers fueront ceux des queut
Justices in Ete chargeont les Juries de inquier come ap-
piert in Bracton lib. 3. tract. 2. cap. 1. fo. 116. Et ceo accordz le
Mirror des Justices, quel liure fuit auxy escrie deuant le dit act
de 28. E. i: Al offices des chiese Justices appent le stoc-
tusnes des iudgements & errozs ac, & cy appent a lout office
doter et terminer touts plaints faits des personel roys
a 12. lieus detour le Roy, & les gaoles delineries des p̄slosis
deliuerable, et a determiner quant que est determine p̄ Ju-
stices errants. Et Bracton auxy, que auxy, escrie deuant le
dit act, libro 3. de Actionibus cap. 7. fo. 105. Habet rex plures cu-
rias in quibus diuersa actiones terminantur, & illarum cur' haber
vnam propriam sicut aulam regiam, & Iusticiar' capitales qui pprias
causas regis terminant, & aliorum omnium, per querelam, vel per
privilegium, vel per libertatem.

Quant al auer authozie, le seneschal & marshal sont
Judges del marshalsea del hostile le roy, & cest court al com-
mon ley ad particular & limited iurisdiction: 1. in respect d'
causes, car ils come Judges de cest court nanoient iurisdi-
ction forisque de pleas del corzone, & de 3. particular common
pleas, cest auoitie, pleas de det, couenant, & trn's vi & armis,
come de batterie, biens imposzs, mes nemy de Trn's quare
clausum fregit, Electione firmat, Action sur le casé, Detinue, ne as-
cum auer personnel action, ne dascum real ou mixt action: 2.
in respect des persons, car in det & couenant ambideux les p-
sons couient este del hostile le roy, mes in trn's suffist si lun dez
parties soit del hostile le roy, & ceo ouzy appiert per Flota
lib. 2. cap. 3. Si autem de aliquo familiari regis (i. aucun del hostile
le roy) fiat querimonia, primo summoneatur, 1. attachetur, 3. capiatur,
&c. per que appiert, que le trns couient este vi & ar-
mis, & nemy sur le casé, ou auerment Cap. ne gist al commom
ley, & auxy que suffist si lun des parties soit del hostile roy.
Mes instant que le seneschal & Marshal auoient al commom
ley ceulz authozties, lun general & auer particular, & ambi-
deux

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deux courtz adonques tenus in aula Regis, & que ils ount le generall authozitie foysque a volunt, & ount fixed estate pur lour vies in lauter, ilz trahont a lour court del Marshalsea per colour del dit general authozitie plusoys causes que per la ley appent al iurisdiction del dit court. 3. In respect del lieu a quel lour iurisdiction fuit circumscrire; & ceo apiert per Fleta lib. 2. ca. 2. Infra metas hospitij continentes 12. leucas in circuitu, & le Mirror des Justices vbi supra. Et ceo fuit le ley deuant lessatus de 13. R. 2. cap. 3. Mes ceo limit le 12. leuks deste account inter le tonnel le roy. Et le seneschal & marshalesteant issint restraing, ilz inuent diuers meanes & deuisez de ampliat lour iurisdiction, & a encrocher sur le common ley; et pur ceo si in le obligation, ou couenant ac. mention fuit fait de distresse del seneschall ou marshall del hostle le roy ou lun de eux, ilz boilent tener plea de ceo coment que lobligation ou couenaunt fuit fait hors del bierge. Et auxy ilz volont a prendre connusans des detz & autres choses, ou les gents ne fuet del hostle, & ceo appiert per Fleta lib. 2. ca. 3. Tunc demum de obligationibus & contractibus, in quibus debitores ad distinctionem seneschalli & mareschalli domini regis sponte se obligauer: *Et paulo post.* Et nota quod in obligatione oī in qua fit mentio de distinctione seneschal' & mareschalli hospitij regis vel eorum alterius tm', audit sunt partes & loquela terminata sine breui vbcinque se contraxerint infra virgatam vel extra coram sen' nisi loquela liber' tangat ten' eius vel pertinent'. Nec obstatit peteti ex° de contractu facto extra virgatam, vt inter placita Petri de Chamnet ann. r. r. E. 18. inter Henr. de Wotton potentem, & Ranulfum Foleschanks obligat' p̄f̄sat. H. in necessarijs pro victu & vestitu & huiusmodi ad valenc' 20. li. per an. suo perpetuo inueniēd' pro quad' terra in D. & quadam balliuia in S. & vnde idem R. obligauit se in Lond' distinctioni sen' & mar' regis anno 15. Rege tunc existente in Vascon'. Cui execution' de nouo infra virgatā non allocata, petit iuditium si de libero ten' vel cius pertin' debuit sine breui regis respondere cum idem H. petijt certum redditum ad terminū vite suæ: Et quia voluit sic obligari nec volenti & scienti fit iniuria considerat' fuit per pl'es. Iustic' qui aderant, ex quo necessaria illa proueniebant tanquam de camera & non de loco certo de quo potuit visus fieri, quod executio predicta locum non haberet, & quod aliud diceret & responderet, vel pro indefenso & conuictō haberet. Alter inuention ad ampliandam iurisdictionem suam fuit, que coment que nul des pacties fuit del hostle le roy, vnoce ilz voillēt nomer eux in le count & plea del hostle le roy, & issint, come

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come a eux semble, a estopper le partie a counterdire. Mes
a concluder cest point appert a toy bone Lecteur, que a sca-
uet q̄ le ley fuit deuant lart de 28.E.1. come necessary, lautho-
rities des dits ancient liures del Mirror de Iustices, de Bra-
ton, Britton & Flota sont a discusset cest point; & comment q̄ vn
peradventure poet scauer le ley sur les ancient statutes, vñc
ils ne vnques scauet le boier reason del interpretatio de eux,
si ne scauoit que fuit le ley deuant le feasant del eux, & p̄ ceo
boier est quod multa ignoramus quz nobis non laterent si veterū
lectio fuit nobis familiaris.

Quant al 2. point launcient stile del court del marshalsea
fuit. Placit Coronæ aulæ hospitiij dn̄ i regis tēta corā &c. p̄ queux
parols aulæ hospitiij est proue, q̄ al meines lun ou lauter par-
tie doet este del hostile le royst, car comit poient les parols este
aulæ hospitiij dn̄ i regis q̄nt nul des parties est del hostile le royst.
Et fuit obserue que ceux que sont del hostile le royst sont appell
Aulici, & ceo est le reason q̄ ne besoigne in suits la deuant le se-
neschal & marshal Daledger que le pt ou def. fuit del hostile
le royst, car le stile del dit court come apres appert per multis
authoritez ceo implie. Le 2. reason est pur ceo que les proce-
dings in m̄ le court es̄ per bill in respect del priuiledge des
parties & nemys p̄ original, & le court del banke le royst ne poit
tener aucun comon plea per bil sang priuiledge del court. Le
3. reason q̄ le service & attendance des suants le royst fueront
ty requisite & necessarie al royst q̄ les pleas in le dit court seront
pluis cost discontinue per son remoue hōzg del bierge que il
perdra le attendance de ses service, & sil poient tener pleas
m̄re forxners, q̄l reason seront que les pleas seront discon-
tinue per le remoue del royst & pur q̄nq̄ seront les Judges del
hostile le royst a decider causes q̄nt nul des parties est del hostile
le royst? Jurisdictio est potestas de publico introducta cum necessi-
tate iurisdicendi; Et c̄ accord bien q̄nt les p̄ties soient del ho-
stile pur le necessite del service le royst, mes nemys q̄nt nul des
parties soit de m̄ hostile. In Mich. 42. & 43. Eliz. in banke le royst
Hall port b̄re de Error vers Jones dñ iudgement done in court
de P̄pouders del market in le citie de Glouc, p̄ Jones Re-
gister al Censu de Glouc. p̄ ceo q̄ Hal ad publishe slanderous
parols de lui, g. That maister Jones and his clerks haue by color
of his office extorted and gotten 300.£. p̄ an' by vnlawful meanes
for many yeeres together aboue their ordinary fees for writing of
testamēts & granting of administrations, & le iudgement fuit reūs
p̄ 2. errois 1. p̄ ceo q̄ les dits pols ne concēnat aſc matt tou-
chant le market, & pur c̄ le court nad aſcun iurisdictio de ceo;

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mes si un slander asē que viendra eins le market in asē chose
que concerne son trade , luy action güst bien, 2. Appiert in
le count q̄ les parols fuet ple deuant le market , & nemp deing
ceo ; car sitōe le court nad iurisdicē mez pur choses concernant
le market, illint nad iurisdicē p̄ matters concernant le mar-
ket sinon que ils sont fait in si le market. Vide Dier 2.& 3. Ph. &
Mar' f. 132. Vide Bracton 33.4.13. E.4.8.7. H.6.19.13. H.7.19. le
statute de 27. H.6.ca.5.17. E.4.ca.2. & 1.R.3. 6. pari ratione serf
encont reason q̄ pleas serf ten⁹ corā seneschallo & marischallo
hospitij dn'i regis dun chose q̄ ne concerne asē del hostle. Le 4.
reason ex congruo, ne serf comely q̄ ascun Cartman, ou autre
mechanicall p̄son suera lauter in si le court a traheſ eux in
aulā regis ou la court fuit originalment tenus, car ils nauoient
vestimenta aulica ; & pur c̄ est record p̄ Luke le Euangelist ca. 7.25.
dixit ad turbā quid existis videre hoēm mollibus vestimentis in du-
tū ? ecce qui in veste p̄ciosa sunt & in delicijs agunt, in domibus re-
gū sunt. Et le cōmon ley regard conuenienty , & ne allow ali-
quid indecorū, ne c̄ que ē fait cont bonos mores. 5. I si le plia-
int, g. an' 28. E.1.c.5. fuit p̄suē, q̄ le chācelor, & les Justices &
son banke luy suiuēt, illint q̄ si eyt tous tōurs pres de luy
asē des sages del ley q̄ sachent les besoignes q̄ veignent a la
court dueant delisi a toutes les foits q̄ mistier serf : & appi-
ert p̄ dīs records subsequent, q̄ le chācelor & les Judges
puis c̄ act ont lour purueioz &c. & q̄ accordāt p̄ ueriance fuit
fait p̄ eux, cōe appiert in Rot. paten' 10. E.2. part 2. mēbr' 20. &
2. E.3. part 1. mēbr' 33. &c. 1. àq̄ 4. E.3. a q̄ l tēps le court di bâke
le roy deueigne residēt a toutes les pleas la esteant corā rege:
et p̄ l'act de 4. E.3. ca.3. fuit prohibit, q̄ nul purueiance serf pris
grand ne petit foizq̄ tantsolement les purueioz pur le roy la
roigne & de lour infants, ne preigne blees &c. Mes p̄ le dit
act de 28. E.1.ca.5. le general authoritie del seneschal vanish,
car in tant q̄ ayant regard a c̄liz fuerot foizq̄ les vicegerē ts
del chiese Justice, quant il si fuit silent in p̄sentia maioris cel-
sat possessio minoris ; & uncoze per colour, de lour foizmer gene-
ral authoritie ils mult introchouent sur le common ley. Et
fuit obserue, que a nul temps puis le sealance de cest act le
court del marshalsea del hostle le roy nauoient tenus ascun
pleas del cozone, pur ceo que les Justices del banke le
roy fueront a luyuer le roy, et pur ceo ils ount vle a oyer et
terminer pleas del cozone deins le bierge per force dun com-
mission doier et terminer in le temps del vacation, car in
tēps del terme q̄st le bank sea in si le county tous tōurs cōmissi-
ons cessont. Vide Kath. Wrote en le 4. part de mes Rep. fo. 47.

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6. Le reason pur quoys cest court fuit limita ceuyz actions, fuit par q̄ que vn del hostie q̄ biné de son salarie ou peué, pluis tost ad occat a bozowder deniers à faire conenant que aués de m̄ hostie p̄ appel à auks necessaries, à p̄ trn's vi & armis, cōe bateerie, dez biens imports ac p̄ preseruaé de peace ils ount iurisdictiō come auant dit. 7. Le reason si quoy les bounds del marshalea sont appel le vierge, à q̄ son iurisdictiō ē confine deing le vierge, est p̄ ceo q̄ le marshal portat virgā (qua signat pacē) corā regē por spatiū 12. leucarū &c. & de virga predicta dicitur virgata; & buster ē le seneschal à marshall ne vñques auoient iurisdiction, & ceo appiert in Flota lib. 2. cap. 4.

Dit al 3. point, q̄ le consideration touchant lach de articuli sup cartas ca. 3. fuit resolute q̄ artic' sup. cartas est tant à dire cōe explanationes super cart', à leg ch̄es icy menē sont le grād ch̄e & le ch̄e del forest, à illint appert per le pamphle, Pur ē que lez poines de la grand ch̄e des franchises & de la foorest ar. Et in Pierce de Halmarsheg case le liure dit (q̄ Herle chief Justice in 6. E. 3. f. 33. fist lier les explanationis & les ch̄es. 5. l. 11. chapt de Champnre) per que appiert, q̄ Artic' in cest case signifie Explanation; & aſquung diont quod dicūt articuli quia arctat ad obedientiā. Mes donq̄s hoc est demande in quel part de Magna Chart. poet vn trouer aſc chose concernant la court de marshalea : a ſuit r̄nd, q̄ le 29. chapt. de Magna Chart. extēd aſc, car la est purueu quod null' liber homo capiat, vel impriso-ner, aut disſeſietur de liber' ten'to suo, vel de libertatibus, vel liber' consuetudinibus suis, aut vtlagetur, aut exuletur, aut aliquo modo deſtruatur, nec ſuper eum ibimus, nec ſup eum miſtemus niſi per legale iudic' pariū ſuorum aut per legē terrae: p̄ q̄l act ch̄eſe arreſt ou impriſonmē, & ch̄eſe oppreſſiō contra legē terrae est prohibite, donq̄ ſi aſcun encoυntre ley vñſurpe aſc iurisdictiō, & per coloz de ceo arreſt ou impriſon hōe, ou in aſc manner per coloz dun vñſurped authozitie oppres aſc hōe (q̄ est vn manē de diſtructiō) encounter le ley, il vuit este punie per cest statute: & pur ceo que le ſeneschal & marshall del court del marshalea auoient accroche a eux iurisdictiō in diuers causes quz ne appett a eux et per colour de ceo agard preceptz aſcuns foits darreſter le corps del defendant, et aſcuns foits per colour de execution de vendre ac. les biens & chateaux le defendant encounter ley, que est oppreſſion per colour de Justice & vn manē de deſtruction, a cest cause cest 3. chapter fuit enact pur explanation del dit grand charre quante al iurisdiction del dit court del marshalea. Illint que cest act de Artic' ſuper cartas n'est pas

Mis.

intro-

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introductorie dun nouell ley, mes explanatio de grand chē
que fuit declaratorie del antient common ley denglitte. Mes c
appiert auxy p cest 3. chapt les pts de q̄ sont oze dēe consider.
Cest chapt concernat le court d̄ marshalsea ē diuid in 2. ge-
nerall pts, s. in un pamphle, & le corps del act: in preamble 3.
choles lōt p pround dēe remedie p le corps del act; 1. destats
des seneschais & des m̄shals, id est, concernant le iurisdicō per
force de lour offices in q̄ ilz ont estates, s. p lour vies deins le
court del m̄shalsea; 2. des pleas q̄ eux deuoient tener, p q̄ux
appiert q̄ cest chapt fuit declaratorie, car lenthē de cē chapt
fuit a reduē le court d̄ marshalsea a s̄ boier & dpoiturel insti-
tuē, le q̄l cē pol (deuoiet) import, & p ceo cest act ferē demon-
straē q̄ux pleas ilz deuoient tenir, q̄ bien accord oue le title Ar-
tic sup. cart & oue le liure de S. E. 3. les explanac de lez chēs,
i. del common ley; le 3. est, com̄t ilz deuoient tenir les pleas. Le
corps del act p̄sue les pts del pamphle, & p̄mērit, tout le
puieu de c̄ extēnd solement al court de marshalsea del hostle le
roy: Q̄nt al pleas q̄ eut deuoient tenir, le corps del act ad fait
declarac de 3. points; 1. des causes, 2. des plong, 3. d̄ lieu; p
les causes le puruieu del act est in le negatīve, in part ablo-
lument & in pt oue un exclusiō; Q̄z deine est, que desormes ne
teigne plea de franktenement, & c̄ est absolute, ne de det, ne d̄ co-
uenant des gents de people, mes ceo est oue exclusion, p̄mi-
ment al causes, forsq̄z tantsolement de tr̄s del hostle & daulx
tr̄s faitz deinz le bierge, & des contractz & couenantz, issint
que ceux parols forsq̄z tantsolement se reduceōt q̄nt al causes
le iurisdiction del court a son original institution, s. al acci-
ons de tr̄n's, det & couenant, & touys auters pleas sont excluē:
Quant aux persong, si cest act nad fait aucun particular de-
claration, come appiert devant, ilz couient dauer ewe le p̄ti-
uledge del hostle, s. in tr̄s, ou abiduz, ou al meines un soit
d̄l hostle, et in case de det et couenant ou abideux lōt d̄l hostle, et
de c̄ auxy cē chapt ad fait exp̄s declarac. Et l' expositē in l' case
de Michelb. in le 6. part de mes Reports fuit assent p̄ bone ley: et
vid'la act passe ambiō measōs in plaint in ann' 1. R. 2. et vide
inter petitiones parliamenti anno. 1. E. 3. London 10. que la le
Seneschall et Marshall puis le dit act acroche a eux te-
ner auters pleas que de Trespas, Det, et Couenant. Quant
al lieu, lestatute ad restraine ceo al bierge solement, & pur
ceo que per colour de certaine inuentionis del Seneschall
et Marshall ad ampliandam iurisdictionem suam, quant aux
pleas, plong, & p̄cinct, cest chapter ad puruieu, q̄ desormes
ne

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ne preigne le seneschal conusans de dets ne daulx chose for-
que des gents del hostle, issint que voluntarie conusans de
dets deuant le seneschal & marshal per fozeiniers ne done al
dit court iurisdiccion, mes cōe vn vniuers incrochent sur le cō-
mon ley fuit ouste p ce act. Autz est ouster purueu, q nul auē
plea ne tiend p obligati fait a le distresse del seneschal ou mar-
shal, per colour de q, come appiert deuant, ilz accrocheount a
eux m̄ iurisdiccion non solement qut lez p̄ties nont a lez p̄mis ledz,
mes auxz des caules q ne appent a lour iurisdiccion, a eux auxz
faits horz d̄ bierge, cōe appiert p e q Flera ad deuant report,
& q ad bien expres le voier cause a lence de les ditz 2. darrein
branches q de eux m̄ fuit pleine de obscurtie. Quant al 3. part
del famble, s. contz zt. le corps del act ad 3. branches, 1. q nul
plea de tr̄s ne pleadront auf q ne soit attache p eux, 2. a les
pleadzot hastiueme de iour in iour, issint q ils soient pledez et
fmins auant q le roy illet horz des bosids de ce bierge ou le
refis fuit, 3. & si per cas de dedeins les bounds de cel bierge ne
potent este terminez, cesserent les pleas deuant le seneschale et
soient leg pleas al common ley. Et fuit obserue que coment
que le seneschal & marshal sont ambideux Judges, vnoz
in cest darreine branch, come plusoz in Flera, le seneschal est
solemement nosme pur ceo que il fuit le home del ley, et pur ceo
ad le direction del court. Et le conclusion del corps del act
quant al ceulz 3. pointz est, Et si le seneschall ou le mar-
shall rien facent encoûter cest ordinance, soit lour fait tenus
pur nul. Et cest act fuit de cy grand profit et consequence; que
y place de parlaſſit an 18.E.3.ca.7.ceo est enact & comand deſte
mīle in execution.

Et quant aux authoritez in ley, ilz sont copioues, et de 4.
seueral natures, 1. liures des ans & termes, 2. liures et-
rie de la ley dengleterre, 3. iudgmēts in parliament, & toutz
ceulz sont Thesauri aperti, 4. iudiciale records & presidents, et
ceulz sont Thesauri absconditi. Et pur direct authoritie in le
pointz in les liures des termes et ans, 6.Rich.2.Action sur le
statute pl. ultimo, 3. Henr. 6. titul' Eſtoppel 18. Action sur le
statute 13. 7.Henr.8.30. 10. Henr.6.13.14.Henr.6.6.1.5.Edw.4.
129.19. Edward.4.8.b.20.Edw.4.16.22.Edw.4.11.22.Edw.4.
16.23.Edw.4.31. Vide 48.Edw. 3.17.b. et Register originall
111. le plaintife ne vñques auerre zt. que lun ou lautre par-
tie soit de Hostle, caſa qua ſupra. Register originall 185.
inter brevia de Statuto, Rex Seneschallo et Mareschallo Hof-
pitij ſui ſalutem(et recite le dit Chapter del Statute) et etiam

Le case del Marshall ea.

ex graui querela A. de B. accepimus, quod vos ad sectam R. ipsos ad respondendum coram vobis præfat' R. de quadam transgression &c. infra virgam nostram apud B. quanquam neuter eorum de eodem hospitio existat &c. vobis mandamus quod si ita est, tunc placito illo coram vobis vterius tenend' supersedeat oio, ipsu' B. cont' form' ordination' p'd. non molestant' in alieno grauant'. Quel bte esteat forme si le dit statut a maintenat puis le feasans de t, e manifest proove, q le court d' marshal sea ne poit teni plea in tuis deins le bierge si nul des partieg soit del hostile le roy. Et est deste obserue que lou ascun statute prohibite ascun chose, home poet auer Supercedas in nature dun prohibition al ascun Judge que reigne pleas encounter ascun statute: et hoc appiert in plusoz cases in le Register inter brevia de statuto. Est auxydee obserue, que qnt ascun statute prohibite ascun chose sc. si ascun implead auerter, comment que soit in course dun legal proceeding, vncoze le partie grieue auera action sur lestatute vers le party que sua encounter lestatute, comment que les parols de lestatute ne done ascun action al partie, mes ceo est un consequent et chose imply in chesun chose prohibite per ascun statute: et ceo appiert per le dit liure in 7.H.6.30.&.31. ou le pte grieue ad action sur mesme cestu' statute, & 4. E. 4.37. action sur lestatute de 2.H. 5.7. pur le nient deliuerie del libel. Le Tales siue Noux narrationes fol.102.bn liure cite a approue in 39. H. 6. Le diuersitie des courts fol.102.F.N.B.241. b. home auera auerment in action pozt vers lui in le court de seneschall et marshall, que il ne fuit del hostile le roy al temps del tuis ou contract fait ou que le plaintiffe ne fuit del hostile le roy. Vide Stanford lib.ca.5. Et cest point est resolute per parliament in 15.H.6.cap.1. ou est recite, que les stewards a marshals del hostile le roy a lour deputies ont tenus pleas de Det, Detinue, a auters pleas personel inter gentes que ne fueront de mesme hostile, fesant mention in lour records que les plaintiffes et defendantz fuet de mesme hostile, a ne allowant aux partieg defendantz lour challenges a exceptions per eux alledge qd eux mesme ou le plaintiffe ne soit de mesme hostile encounter les leyeg a statutes in ceux cases faits, est puruieu que ils ne seront estoppe per tiel record sc. eis ayent les dits defendantz lour auerment a dire que ils mesme ou les pl. ne fuet de mesme hostile al temps de tiel plea ou suit commence, le dit record ou autre matter deins icel contenuus nient obstant: per quel act le dit inuention a increaser lour iurisdic-
tion

tion fuit ouste , que ne fuit forsque declaration del common ley come appiert per le dit liute in 3.H.6.cit' Estoppe 18.& 10. H.6.13. Vide les dits acts de 30.E.1.1.E.3.1.R.2.5.E.3.10.E.3 & 33.H.8:cap.12. Et fuit obserue que chescun act fait concernant le marshalsea , ou restraine ou explane tout iurisdiction , & nul act adde ascun chose a ceo. Quant aux iudicial recordz appiert in Pasch.38.E.3. deing le treasure coram rege, que iudgement done in le marshalsea in action de Detinue fuit reuers in banke le roy, pur ceo que ilz nouent power a tener plea in tiel action : & pur ceo in le dit statute de 15. H. 6. in le preamble action de Detinue est malement recite.

In le liute Dentes fol.278. & fol.128.conusauns 7. et 32.H.6 Purchase case cite in le dit case de Michelborn, quel veies la deadiudge in le point.

Quant al nature daction, fuit resolute que cibien le common ley, come le dit act de 28.E.1. extend solecht al Trn's simplicitè, et nemy al trñs secundum quid, s. sur le case , car ceux ne sont actions de trñs sang addition ; nient pluis que ilz potent teigner plea in action de trn's sur trouer ou battement et conuersion, ou semblables, mes solement de trespass simpliter s. vi & armis & auxy de tiel trn's in que ascun frankteint ne poet bener in debate , come est auantdit : & accordant a cest resolutiō fuit adiudge in bank le roy Hill' 5.Iac.regis rot 876: in Ieremy Graies case, que iudgement done in le court de marshalsea in Action sur le casé sur trouer & conuersion , fuit reuers pur ceo que lestatute ne extend al Trn's sur le case: & que ceo auxy accord le dit case de Michelb. Mes comment que cest action de Assumpſit, sur generall consideration quod indebitatus existit soit enconter le ley, come appiert in Slades case in le 4. part de mes Reports, bnoz s'ilz auoient iurisdiction del caule , tout proceding in ceo ne fuit voide mes voidable per brieve de Error. Mez de ceo ser' discusse pluis largeint in le 2. point, que oze ensuit.

Cest resolute, que laction gist bien vers les defendants: & difultie fuit prise quant un court ad iurisdiction del cause & procede inuerso ordine ou erroniulement, la le party que sue ou le officer ou minister del court que execute le precept du proces del court, nul action gist vers eux : mes qnt le court nad iurisdiction del cause, la tout le proceding est coram non iudice, & actions gisont vers eux sans ascun regard del precept ou proces: et pur ceo le dit rule cite del auant part, s. qui iussu iudicis aliquod fecerit (mes quant il nad iurisdiction,

*Le resolutiō
quant al 2.
point.*

non

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non est index) non videtur dolo malo fecisse, quia parer' necessite est
fuit bien alloue, mes non est de necessite de obeir cest y q n'e
Judge del cause, nient plus que est un mere estrang. Car le
rule est, Iudicium à non suo judge datu nullius est momenti. Et ceo
appiert plenement in nostre liures : et pur c'm le case in Bowser
& Collins in 22.E.4.33. la Piggot dit, si le court nad power &
authoritie, donq's iour proceeding est corā est iudice, come si
le court de common banke teignoit plea in un appeale de mort,
robberie, ou alcun autre appeale, & le def. est attaint, ceo est
corā non iudice, quod oēs conserunt. Mes si le court del com-
mon banke in plea de Det agard bē de Capias vers Duke,
Countes &c. que per la ley ne gist vers eux, & ceo appiert in le
bē m, vnoce si le viscount arrest eux per force del Capias, p
ceo que comit que le bē soit encount ley, nient moins instant
q le court ad jurisdiction del cause, le visc est excuse : & que ceo
accord 38.H.8. Dier 60.b. Même la ley si J. Justice de peace fait
garrant darrest un pur felonie q nest pas indite, comit q le
Justice erre in le garf de ceo, vnoce cest y que fait larest per
force de cest garf ne sera punie p briefe de faux imprisonment
pur ceo que il est Judge del cause: et one c accord 14. H.8.16.
Mes si un soit indite devant Justices de peace & confesse le
felonie, & auoit un coroner, & aduient approvi, & fist apppeale,
tel appeale devant le roy fuit adiadge pur nul, ceo appiert
in 9.H.4.1. & 2.H.4.19. Vi.44.E.3.44. et le reason de ce case (cōs
alcuns suppose) est pur c que le commission del peace extond
solemēt ad inquirend', (s. al inquire devant eux m) audiend' &
terminand', & tressint lapppeale q'il approvi est hors de lour comis-
sion, pur c que lapprover ne fait son appeale devant les Ju-
stices mes devant le coroner, & le coroner record c al court:
mes le reason q'est rendue in 9.H.4.1. est, que les Justices de
peace nont power dassigni luy un coroner, nient plus q ilz poi-
ent enqueter de treason, come la est auxi tenus, pur c que nest
deins lour comission. Tressint ou le visc, que est prescribe per le
ley a tener sō Courne deins l' moys aps Mich. &c. regne sō
Courne puis le mois, & prist enditement de robberie a m le
Courne, & le inditement est p Certiorari remoue in banke l'roy,
per admise de tous les Justices le pte tressint indite fuit dis-
charge, pur ceo que lenditement fuit ousterint void & corā non
iudice, instant q a cest temps le visc nad authoritie a tenir court.
Estoit dit per les Justices, q si home ad un Leet q ad este te-
nus a un iour in certaine, il teigne ceo al autre iour, que tel
court tressint tenus est voide & fauns garf; autrement est de
court

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court baron. Mes si le court del common banke teigne i plea
in det, trn's &c. sans original, ceo nest void, car ils sont Judges de ceutz pleas, et ne poet este dit que le proceeding est cor-
non iudice; & que ceo accord 19. Ed. 4. 8. & que est in le point ac-
cord le dit liure in 6. R. 2. que iudgenst in le marshalsea quant
nul des parties est del hostile roy poet estre auoide per plea
sans aucun brc de Error, quel proue que ceo est boide. Vider 20.
E. 4. 16. 22. E. 4. 13. & 10. H. 6. 13. est agreee in le point auxy, que
in trns devant le seneschall & marshall, si nul part soit del
hostile le roy la ceo est coram non iudice, pur ceo que ils passot
lour power. Misme le ley Ms teignont plea hys del vierge,
come est tenuis in Plo. Com. Plats case fo. 37. & ceo accord oue
le rule Extra territorium ius dicenti non paretur impune. Vid 22.
Ass. 64. Pl. C. 394. b. 37. Ass. Plo. 17. 39. E. 3. 33. 34. 39. Ass. p. 6. 7.
H. 4. 27. 11. H. 4. 36. 36. H. 6. 32. 22. E. 4. 32. 1. R. 3. 1. 2. R. 3. 2. 5.
H. 7. 17. b. 9. H. 7. 12. 21. E. 3. Barr' 271. 3. Marie Dier 135. Et que
ce diuersitie tous les liures soit bien accordez. Et qnt al dit
case in 7. E. 3. 23. & 24. per le common ley appert al office de mar-
shall a protector le court de femeys puceing, come appiert in
Flera ca. 5. Mareschalli interest virgatam à mereticibus oibus pro-
tegere & deliberare, & habet mareschallusex cōsuētudine pro qua-
libet meretrice coi infra metas hospitiij inuenta 4. d. prim' die, quæ
si iterū in balliu sua inueniat, capiatur & corā seneschall inhibiāt
ei hospitia regis, reginæ, & liberorū suorū, ne iterum ingrediatur,
& noia eorū imbreuient, quæ si iterū inueniat fuerint hospic' secu-
trices, tunc aut remaneant in prisoна in vinculis, aut sponte pred'
hospitia abiurent; quæ si autem tertio inueniat fuerint, considera-
bitur quod amputetur eis tressoria & tondeātur; quæ quidē si quar-
to inuenient, tunc amputentur eis super labia, ne de cetero concu-
piscant ad libidinē. Ceo esteat le ley, appiert q le report del dit
liure de 7. E. 3. est cy obscure & imperfect que mult del sub-
stance del matter couient este supplie per intendement.

Et le chiese iustice, in le conclusion de son argument, obſue,
que tous les cases in quā deua: ceux heures la fuce diuersitie
des opinions inter cest court & le banke le roy sont oze
vnement resolute. 1. Que general count in action sur le case
Quod cū indebitatus fuit in tel summe super se assumpsit, launs
mēang le cause del det, est insufficent. 2. Que particular
count in tel case mēant le cause del det, comt que appiert q
le p̄ poet auer acc de det, bien gis, cōe fuit resolute in Slades
case 3. Que p̄ assumpsit del testator, & a paier vn det ou dutie,
action sur le case gis & les executors &c. come fuit adiudge
in

Le case del Marshalsea.

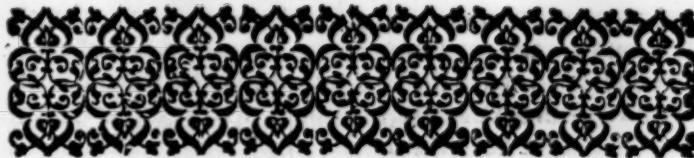
in Pinchons case en le 9. part de mes Reports. 4. Cest case del 1493
riddiction del marshalsea est ore adiudice par ambidoux, conseil
g. in le case del due Jeremy Gray in le bâk le roy, & in le case
albarte in cest court, encounter huy Judging la est nul opini
on in aucun de nre lices, mes come appert devant mults
concurrent in terminis que eux in tous les points ore re
solue. Il s'int que nstre successeurz, come ieo croys, assumera le
dit del prince des Poetz,

Haud vñquam necque concio nos neque curia dicitis

Audiuit pugnare animo sed semper eodem,

Et sentire cadem atque cadem decernere vellet.

Pasch.



Pasch ii. Iacobi Regis.

Leonard Loueis case.

La Election firmz poze per Robert Proute vers Roger Worchen, sur demise fait al plaintife per Leonard Loueis geff 13. Mart' an' 7. Regis nunc de 8. acres de terrin Clawton in le countie de Deuon pur 5. ans del darreine tout de June adonqz darreine pas, le defendant pleade rien culp. et sur ceo les Juroz done vn especiall verdit a cest effect: Leonard Loueis ac fuit seissie des mannoz de Assaland & Heanton in les Counties de Deuon & Coznewall, et des mannoz de Killaton, Pengelly, Willeswoorhy, & Truesquite in le Countie de Coznewall in son demesne come de fee, & auoit issue Thomas son eigne fr̄s, William Loueis, Humphrey Loueis, & Richard Loueis (quel William puis auoit issue Leonard le lessor del plaintife) & le dit Leonard latell 26. Septemb. anno 12. Reginz Eliz. per son fait enfeffa Roger Prideaux ac, Humphrey Specot ac, Sauters, & lour heires al bles & intents in certaine Indentures tripartite de m le date expresse & declare, cestassauoir, des mannoz de Killaton, Pengelly, & Willeswoorhy, & del mannoz de Assaland al bles de Leonard Loueis latel pur son bie launs impeachment de waſt, & puis al bles des tiels fermoz ou tenantz queux il desmiserat aucun part des premisses pur ou durant bie ou bies, & pur aucun terme des ans, come in aucun tel demise ou demises serz limit & appoint ic, & puis al bles del perfoz.

Leonard Loueis case.

formance del testament & darreine volunt del dit Leonard laiel, & al vse de tel person & persons leueralement a queux le dit Leonard laiel per son darreine volunt deuisez aescun estate ou estates de & in les dits manozs darreinement mention, ou dascun part de eux, accordant al boier intent & meaning de son dit darreine volunt, & puis le performance de son darreine volunt al vse del dit William Loueis & les heires males de son corps issuantz, & pur default de tel issue al vse de Humfrey Loueis et a les heires males del corps del dit Humfrey loyalment engendres, et puis all vse del dit Richard Loueis et a les heires males de son corps loyallyment issuantz, et pur default de tel issue al vse de Leonard laiel et a les heires males de son corps sur le corps de Ibot sa femme engendres, et puis al vse des heires females del corps del dit Leonard laiel, et pur default de tel issue al vse del dit Leonard laiel et ses heires a tous iours ; Et del dit manoz de Heanton al vse del dit Leonard laiel pur son vie launs impeachment de wast et al autiels bles come est auant dit, sauve que le dit Humfrey est preferre quant a cest manoz deuant William, et donques al William ou teliſ remaingder ouster come est auantdit, Et del dit manoz de Trauesquite, a autiels bles come est auantdit, sauve que Richard Loueis est preferre a cest manoz in remainder a luy et les heires males de son corps deuant William et Humfrey, et puis a mesme les bles come est auanedit : In queux Indentures la fuit vn power de reuocation, testassauoir, que si le dit Leonard laiel sera minded ou disposed a alter, chaunger ou faire voide le dit feoffement, vel aliquem vsum eorudem maneriorum seu aliquem statum vel status qui accrescer (Anglicé) should grow, ou sera execute per reason dascun vse ou bles in aescun des dits manozs &c, ou si le dit Leonard laiel sera dispose dauer arere les ditz manozs aut aescun part de eux, ou a doner ou disposer les ditz manozs ou aescun part de eux in aescun autre manner, que ils deuaunt sont limite, ou dauer arere les ditz manozs ou aescun part de eux a luy et a les heires coe in son former estate, & sur ceo Leonard laiel p son escript enseale que son seale & signe que son proper maine noteffera & signefera son volunt & pleasure al dit Roger et Humsrey &c, q adonques apres tiel notice & signification in tiel escript coe est auantdit, teliſ & tants des dits manozs dont il sera tiel notice ou signification in tiel escript sera tout

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tout rendement tolentement boyd, & sera au bte del dit Leonard a ses herites, & que les ditz scroffes adonques fist leisle
per al bte del dit Leonard laiel a ses herites a toutes touz, leases in forme auant dit bste fait toutz foiz except a re-
server a p[er] son p[er]sonne a 6 Aprilis anno 14. Eliz. Reginz Leon Loueis
laiel purchase a luy a ses herites de George Digley a quire
les ditz 8. acres in queux a puis 16. Martij anno 18. Eliz. Re-
ginz per son escr[ib]t en sa leue son scale, a subscripte en son
propre maine, recevant son dit power de renonciation, signifie
que le dit escr[ib]t al ditz Roger Hument, & ceuoit a son veid
le dit fesement concernant soleme[n]t les ditz manors de Kill-
ington, Dingelby, & Willerwostry, & le dit manor de Affaland
(le Bariton la solem[n]t except), a ouster de laire a signifie
a eux, que tant a nient plus bel dit fesement a Indentures q[ue]
contenu mesme les premisses (except devant except) sera
ousterment frustate & void. A le dit Leonard laiel tressent este-
ant leisle de courz les auantditz premisses come le ley re-
quiert a o. Martij anno 18. Elizab. Reginz fist son darreine vo-
lume de escr[ib]t a brange les ditz acres in queux &c. inter alia
al Thomas Loueis son regn il s per leys pardis ensuant,
I devise to Thomas Loueis my eldest sonne, al my Manors &c.
within the Countie of Cornewall, wherein or in the which I the
said Leonard Loueis haue or had any Estate of Inheritancie, the
Lands by me sold only excepted, and also all my Manors, Lands,
Tenements, Rents, Reremptions, Services, and Hereditaments, with
the Appurtenances within the Countie of Deuon, wherein or
in the which I haue or had (besides the Lands by me sold) any
maner of Estate of Inheritancie, Except and alwaies reserved out
and from this present Gift, Grant, Will, and Bequest, my Manor of
Trevesquite within the said County of Cornewall, and all the Me-
suages, Lands, and Tenements in Trevesquite aforesaid, within the
Parish of S. Mabin in the said Countie of Cornewall, and also the
Patronage of the Rectorie and Parsonage of S. Mabin aforesaid,
in the said Countie of Cornewall, and also except and alwaies re-
served out of this present Gift, Grant, and Bequest, as well the Bar-
ton onely of my Manor of Affaland in the said Countie of Deuon,
as all my Manor of Heanton alias Heighanton, with the
Patronage of the Rectorie & Parsonage of Heanton alias Heig-
haunton aforesaid, in the said Countie of Deuon, and my Tene-
ment called Tenaker in the Parish of Clawton in the Countie of
Deuon aforesaid, To haue, hold, occupie, and enjoy the premisses
with

O

Leonard Loueis case.

with the appurtenances, except before excepted, to my said sonne Thomas, and to the heires males of his body lawfully begotten, from and after my death, for and during the terme of five hundred yeeres then next ensuing, fully to be compleat and ended, Vpon this condition, That my said sonne allowe all such Estates, Graunts, and Conveyances thereof alreadie made, or at any time to be made by me the said Leonard Loueis, of and in the said Manors, Mesuages, Lands, Tenements and other the premisses, to him by this my last Will giuen, granted, and bequeathed, according to the true meaning, purport, and effect of the said Lease and Leases so made or to be made; Provided alwaies, that if my said sonne Thomas, or any the issue male of his body lawfully begotten, alien, giue, or graunt, the premisses, or any parcel thereof, to them by these presents, giuen, graunted, and appointed, otherwise then to lease, demise, or grant the same or any part thereof, to any person or persons, for terme of any number of yeeres, as may and shall be determined vpon the deathes of any three persons, or vpon the death of any leſſe number of persons, to be named within the said feuerall Leases, Demises, and Grants, and whereupon the old and most accustomed Rents and Services shall be yearely reserved to haue continuances during the same feuerall Leases, That then all the premisses for default of such issue males of the body of the said Thomas lawfully begotten or to be begotten, or so much thereof as shall be aliened, giuen, and granted, otherwise then as aforesaid, by the said Thomas, or by the said issues males, immediately vpon euerie or any such Alienation, Gift, or Graunt, so made or to bee made of the premisses or of any part thereof, contrarie to the true meaning of these presents, shall remaine and come to my sonne William Loueis, and to the heires males of his body lawfully begotten, and for default of such issue, or if the said William, or any of his issue males of his body lawfully begotten make any maner of alienation, gift, or grant, otherwise then my said sonne Thomas, or otherwise then they may lawfully doe by vertue of the Statute made in the two and thirtieth yeere of the reigne of King Henry the eight in that case prouided, or any of his said issue males may lawfully doe by these presents, then all the said premisses for default of such issue, or so much thereof so alienated, giuen, or granted by my said sonne William, or by any of the issues males of his body lawfully begotten otherwise then as aforesaid, shall remaine and come to my sonne Humfrey Loueis, and to the heires males of his body lawfully begotten &c.

Et

Et puis le dit Leonard Louies latel morust seise des ditz 8. acres de terre in queux ac. & des autres les premiess seisse prout lex postular, & que les ditz 8. acres sont tenus in locage, & que les ditz tenements deuise per le dit volunt al temps de mort del dit Leonard latel fueront dannuel value de xxij.l.xvij.s.x. per annum, & non ultra; & que les tenements dont le dit feoffement fuit fait & nient reuoke al temps del mort del dit Leonard latel fueront dannuel value de lb.l.vj.s.vij.d. & que le dit mannoz de Treueulx solement est tenuis per service de Chivaltrie in Capite, & que le dit Leonard latel nauoit ascuns autres terres, & que Thomas Louies puis le mort del dit Leonard latel enter in les ditz 8. acres in queux ac. & morust launs heire male de son corps, ayant issue Julian sa fille, que prist a baron Robert Doyley Veniget, que enter in les ditz 8. acres en queux ic. Et que le dit Willism Louies ayant issue le dit Leonard Louies in le brieve & count mention, que enter in les ditz 8. acres in queux ic. sur le possession del dit Robert & Julian, & demisa al plaintife les ditz 8. acres in quenx ac. come in le count est alledgede, que enter, sur que le defendant per le commandement del dit Robert Doyley & Julian sa femme enter a lui eict; & si lentre del dit Leonard Louies le lessor fuit congeable ou ney, fuit le question ac.

Apres que cest case (estant de graund difficulty & consequence) ad estre souuent foit arguie au barre, car ceo commence Trinitatis 8.Iacobi Regis Ritulo 4251. In mesme ce stuy terme fuit arguie par les Justices, & fuit conclude que judgement sera done encounter le plaintif, pur ceo q' lente del dit Leonard Louies le lessour ne fuit congeable. Et in cest case divers pointz fueront moue & resolue p le court, alcuns sur lez statutes de 32 & 34 H.8. des volunts, & alcuns al common ley. Sur les ditz statutes, 1. Si home soit seisse de 3. acres de owell annuell value, lun de eux estant ten^e ol Roy p service de chivaltry in Capite, & ayant issue 2. fits done lacre issint tenus & un des autres acres a son puissne fits in taile, per que il adillint execute son power que il ne poit deuiler per son volunt aucun part del tierce acre, & puis il purchase aufs 3. acres de owell annuell value tenus in locage, oze il ayant le reversion in fee expectant sur le done in taile (fait a son puissne fitz) & les 3. acres nouelint purchase ten^e in locage, ne poit deuiler fors q' 2. pes del dit fitz issint nouelment purchase in respect del dit reversion: mes encouer ceo deur ob-

*Points sur
les statutes.*

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objections furent faitz, 1. que le reuersion depend sur la
taile que fuit done in taile soionque le power & authozity a
luy done p les actz de 32. & 34.H.8. al puisne fizs, sur q gard
ou p'mer seisin est sauve & done per les ditz actz al Roy, que
le dit reuersion dependant sur le dit statut taile ne impediera
le deuise de les autres terres tenus in locage purchase apz
pur ceo que le Roy est vn foiz satissie pur ceo; come si home
fait seoffement des terres dont part est tenus per service in
ch'ritie in Capite al vse de son eigne fizs & a les heires males
de son corps, & puis al vse del puisne fizs in taile, ou in fee,
& morzust, si le roy soit vn foiz satissie del gard ou p'mer
seisin apres le mort de pier, & puis leignez fizs morzust sang
issue, il nauera autre p'mer seisin apres le mort del eigne,
come sonent foiz ad este resolute, car les ditz statutes fureront
satissie ou le p'm, issint in le cas al barre, les ditz statutes
vn foiz ouueront sur le done in taile del acce in Capite, & pur
ceo le reuersion de mesme lache ne restainera le deuise del
terres tenus in locage nouvellement purchase, 2. Que le dit re-
uersion est fruitleg, & nemy dascun annuel value cy long cōe
lestare taile continue, & pur ceo cest deing les ditz acts, car
ceux ne extendent a tielz hereditamentz que ne sont dascū
annuel value, come est resolute in Butler & Bakers case in le 3.
part de mes Reports fol. 25. Mes fuit resolute que le dit reu-
ersion expectant sur lestate taile restraine le deuise del entite
locage terre nouvellement purchase per lexpreesse letter del
act de 34. Henr. 8. 5. And further bee it declared and enacted
that all and singular person and persons hauing a sole estate &c.
in fee simple &c. of, or in any mannors, lands, tenements, &c. in
possession, reuersion, or remainder &c. holden of the King by
knights service in Capite: Illint q'sans q'stion le deuisoz ad e-
state in reuerē de terre issint tenus, & per consequence il ne
poet deuiser lorsqz deux partz dez tres nouvellement purchase.
Et quaunt al case que ad este misse que le puisne frere in re-
mainder, apres que le Roy ad este vn foiz satissie per le
eigne fizs, ne sera liuerie, fuit agree pur bone ley, pur c in
tiel case le letter a intention del statute est satissie, & le puis-
nez clame p purchase & nemy come heire al eigne fizs: &
pur ceo puis son mort il ne poet este in gard ou paier pypa-
mer seisin: Et due ceo accord Dyer 14. Elizabeth 340. &
Mathew Menes case in le ninth part de mes Reports folio 133.
Et Coke Chiefe Justice dit, que fuit resolute in Banke le
Roy Hillarij 35. Eliz. Reginz in le case de Clement Horward.

que

que si home seisse de tres in fee, part de hux est ten⁹ del Roy in Capite per service de chivaltrie, conuey deux parts de eux al aucun de ses fils, ou al vse de son femme pur vie, ou in taile, in tel case il poit per son volunt deuise le reversion de les deux parts, comment que l'estatute soit in le dislunctive, per act execute ou per son volunt, vncoze lenthention del act fuit que il aueroit power a disposer deur parts entierement quat a tous estates, & a laiser solement le tierce part a discender, & ceo appiert per les parolz de statute de 34. Hen. 8. cestassauoir, to giue, dispose, will, or assigne by his will, or act executed, by himselfe solely &c. or by all these waies, or any of them, que est taunt a dire, ou per volunt, ou per act execute &c, ou per eux ambideux, Et quaunt aux ditz parolz del statute in possession, reversion, or remainder, fuit resolute ou le dit Leonard Louies ad remainder in taile expectant sur les estates in taile limit a ses fils, q tel remainder ne fuit pas deing le dit act. Et pur ceo si A. soit seisse des terres ten⁹ in socage, & B. seisse des terres in fee tenus in Capite p service de chivaltrie, fait lease pur vie, ou done in taile a C. le rem al A. in taile, ou in fee ; A. p son volunt deuise tout son terc tenus in socage & moyust vivant le lessor pur vie, ou durant le done in taile, le deuise est bone pur tout le terre tenus in socage, car tel remainder nest pas deinz lentelement del statute, mes solement tel remainder que poit traher gard & mariage per le common ley ; come si home fait lease pur vie, ou pur ans, & puis graunt le reversion pur vie ou in taile, le remainder in fee, & puis le grauntee pur vie moyust, ou donee in taile deuise sauns issue, tel remainder que ore est in point dun reversion est deins l'estatute, car ceo per le common ley trahera in tel case gard & mariage &c. Et que coument este remainder de tel nature, appiert per les parolz del dit act mesme procheine subsequent, Or if any rents or services incident to any reversion or remainder, car nul rent ou service poit estre incident a aucun remainder mes de tel nature.

Quant al 2. obiect, fuit resolute q la fuit difficultie inter hereditatem q de lour nature ne soit dascu annuel value, come bona & catal' felon & fugitiuor, waife, stray, & filia. Vid pur c in Butler & Bakers case fol. 32. & le notable opinio d Prisot chief Justice de ce court in 32. H. 6. sur l'estat de 1. H. 4. & choses q d lour nature soit de annuel value, mes in respect du done ou lease absq; aliquo inde reddere. Iles ne sont dascu plement value,

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come in le case al batte, comment que le reuersion in presenti
ne soit dascun annuel value, vncoze la terre m^e est de annu-
el value, & pur ceo tel reuision est deuisable come fuit resolute
per Popkam & Anderson chiefe Justices in le court de gards
Trin' 34. Eliz. in Bedingfields case, ou le case fuit, que Edmōd
Bedingfield de Orborough in le countie de Norff. armiger
fuit seise de 6. manoz in les counties de Norff. & Suff. s.
de lun in son demesne come de fee, & de les au^s in taile oue
reuision expectant a luy & a ses heires, & ad issue Thomas
Bedingfield, diuers de queux manoz fuit ten^d del Roigne
in Capite per seruice de chivaltrie, & chescun de eux de obel
annuel value ; le dit Edmond per son darreine volunt in el-
cript deuisa tous les dit^s manoz a diuers persons & lour
heires, sur trust & confidence pur paiment de ses det^s, & ad-
vancement de ses childzen, & moys, & lestate in taile que
descend a son issue fuit pluis que tierce part de tout ; oze le
question fuit, si le dit deuis sera void p^t tierce part del ma-
noz in possession, & tierce part del reuisions in fee, ou si soit
bone pur intire manoz in possession, & pur leg intire reuerti-
ons, ou si soit bone pur tout le manoz in possession : & deux
parts des reuisions, & ceux doubts surdont sur 2. braches
del dit statute de 34. Henric. 8. le pr^{er}mer est, in ceux parolz,
All & singular person and persons having a sole estate in fee sim-
ple in possession, reuision, or remainder, holden of the king by
knights seruice in chiefe, shall haue full power &c. to dispose 2.
parts, per quel clause see que le deuis sera boide pur 3. part
del manoz in possession, car le deuisor ad sole estate del re-
uision in fee tenus per seruice de chivaltrie in Capite. Le
second clause fuit, And that the king shall haue &c. for his third
part &c. such manors as shall descend as well in taile as fee sim-
ple, And that the will of every such devisor of and for the 2.
parts of the said manors residue, shall stand good, albeit the will
be made of all his fee simple lands ; p^t quel branch semble cler-
ment, que si l' devisor nauoit ascu reuision in fee mes sole-
ment le dit estate taile, que le deuis sera bone pur tout le
manoz in possession, mes le ayant del reuision sur le con-
sideration del dit pr^{er}mer clause fist le question, & fuit questio
tortuosa & difficultatis plena. In quel case fuit pr^{er}met re-
solue per leg 2. chiefe Justices, q^t reuision in fee expectant
sur estate taile secke & fruitles fuit deins le dit act, pur le
cause & reason auandit, 2. fuit resolute, que le dit deuis sera
bone pur deux parts des reuisions & pur lentre manoz in
possession,

possession, & ceo per l'entendement des fesoys del act sur am-
bideux les braunches, ou sine que les debts del deuisoy seroient
payez son d'arreine volunt perfoyme, que fuit vn des princi-
pall motiues del fesoys del dit act ; & sic determinata fuit spi-
nosa illa questio. Vide Dyer 14. Elizabethæ Reginæ, f. 308. Le
seignior Paget, esteant tenant le Roigne per service de Chi-
ualtrie in Capite, leue sine al bise de luy mesme pur die, & puis
al bise de son eigne fils in taile, & puis al bise de son deuz fils
in taile, & puis al bise de droit heires del dit seignior Pa-
get & deuie, leigne fils de pleine age sua liuerie et paia le ba-
lieue del tierce part del terre in possession, et le moitie del re-
version in fee, accordant al b'sual rate, que proue q̄ les actes
de 32. Hen. 8. & 34. Hen. 8. esteant in laffirmation, & queux do-
nont bencfit al Roy in respect del possession, ne tollent tel
benefit que le common ley done al Roy pur le reuersio de m̄
le terre.

Fuit auxy resolute, que coment que hereditamēts, que de
lour nature ne sont dascum annuel value, ne poient este de-
uise, b'ncore silz sont tenus in Capite, ilz restrainera le deuisse
des mannoys, terres, &c. & ferra eux boist pur tierce part,
car le hereditament tenus per service de Chiualtrie in Capite
ne besoigne destre deuisable. Et le chiese Justice in son ar-
gument pur le pluis perspicuitie, diuide les ditz intricate
& prolixe acts in severall braunches. Le primer braunch
hors del dit act de 34. H. 8. que ad este mention deuant, All
and singular person and persons hauing a sole estate in fee simple
&c. of and in any mannoys, Le second, holden of the King by
Knights service in Chiese, Le tierce est hors del act de 32. H. 8.
Sauing, &c. to the King, the custodie, Wardship, or primer seisins,
the cleere yearly value of the third part of the same manors, lands
&c. Le quart clause est hors lestatute de 34. Hen. 8. may giue,
dispose, will, or assigne two parts of the same manors, &c. Le
cinque clause est hors del act de 34. Hen. 8. that the King shall
take for his full third part, &c. such manors, lands, &c. as shall dis-
cend as well of inheritance in fee taile as fee simple. Et hors de
ceux several braunches 6. temps fuet obserue, car Iudicis offi-
ciū est, vt res ita tēpora rerum quererere, quē sito tempore tutus e-
ris. & Omnia tēpus habent, & habet sua tēpora tempus. Le prim
tempis est tempus habendi, cuerie person hauing. Le second
tempis est tempus tenendi, holden of the King, &c. Le 3. tēpus ē,
tēpus disponi, may giue, dispose, &c. & ē ascauoir q̄ p̄ tiel dispo-
sition

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sition la est vn vesting, ou in le subiect ou in le Roy, in le subiect ou p act execute p le common Ley in le vle del tenant le Roy, ou p darcene volunt que vest solement p force de ceut actes; in le Roy solement p le mort de son tenant, car donqz gard ou primer seisin vest in luy. Le 4. temps est tempus appretiandi seu æstimandi, the cleere yearly value, &c. Le 5. temps est tempus prouidendi, plenā tertiam partem à discender in fee ou in taile, a full third part, &c. to descend or come by descent as well of estate of inheritance in fee taile, as in fee simple. Le 6. temps est p construction sur tous les parts, g. Tempus continuandi, seu tempus continuum.

Et fuit tenus que les ditz trois formeis temps doyent concurre, cestassauoir, le temps del hauing, le temps del holding, & le temps del disposing doient concurre ensemble; et pur ceo s'home soit seisié dun acre de terre in fee ten⁹ del Roy in Chiese per service de Chualtrie, et des autres deux acres in fee tenus in socage; & le tenant inkoffre son puissne fiz⁹ del acre tenus in Chiese, et del vn des autres acres a auer a luy et a ses heires, & puis il purchase terres tenus in socage, que in cest cas il poet deuiser toutes les terres nouvellement purchase tenus in socage, et ceo pur trois reasons; 1. pur ceo que il nauoit aucun terre tenus per service de Chualtrie in Capite al temps del deuise, car les ditz acts ad fait vn mariage ou coniunction des terres que le tenant le Roy auoit in socage, ou le terre que il teigne del Roy p service de Chualtrie in Capite, car les parols del ambideux les actes sont, Euerie person, &c. hauing manors, landes, &c. may giue, dispose, &c. two parts of the same manors, landes, &c. à le Shauing in le dit act de 32. H. 8. est Saving a full third part, &c. of the same manors, landes, &c. issint que quant le tenant ad conuey le terre tenus in Capite a son puissne fiz⁹, oze quant il fist son volunt des terres issint nouvellement purchase, il nauoit aucun terre tenus del Roy in Capite al temps del deuise, & lessatutes restraine solement les terres in socage, queut il auoit al temps del hauing des terres ten⁹ in Capite. 2. Les ditz actes done a luy full power and authoritie to giue, dispose, will, or assigne two parts for the aduancement of his wife, preferment of his children, or payment of his debts; issint que quant lessatute ad done a luy power a conueyer deux parts (dont le terre tenus per service de Chualtrie in Capite est part) lenient des fesoizs d'act ne vnqz fait a plumer luy q ad solonqz l'act

lant conuey le terre, de auer mesme la terre pur ascun intent
 ou purpose; & come est resolue in Mights casé in le 8. part de
 mes Reports Trin' 7. Ia. fol. 194. terre que est conuey al vn des
 ditz 3. fînes ne poet este dit conuinous, pur ceo q est garrant
 per lant 3. fuit obserue le grand benefit que le Roy ad y ceux
 statutes, car le tenant le Roy in Capite devant ceux statutes
 puit auer issint conuey la terre a ascun des ditz 3. bles, que
 le Roy ne bñques aueroit gard ne pñmer seisin, come appiert
 in Sir George Cursons casé in le 9. part de mes Reports fol. 75.
 Et pur ceo ne sera reasonable a enterpreter lestatuté in p-
 titice del subiect incounter lexprese letter, cestas cauoite y
 sauant vn 3. part de mesme les terres que le tenant le Roy
 adonques auoit, a extéder ceo ouster les parols aux terres
 tenus in locage queux il purchase apres il ad conuey ou-
 fier le terre in Capite. Mes le greindre question fuit, que si
 Leonard Loueis lauel ad conuey (come fuit admis) le terre
 tenus per seruice de Chivaltrie in Capite al William Loueis
 son 2. fitz in see 7c. oue power de revocation, issint que il ad
 power sur la terre et poet disposer de ceo, si ceo restringer le
 power de Leonard Loueis a deuisier, tout la terre in locage
 nouvellement purchase. Mes le chiefe Justice regne tout vn
 pur les reasons et causes auant ditz, & ed potius pur ceo que
 lestatutes done a lui power à doner, disposer, &c. deux parts
 ac. a son volunt et pleasure; issint intant que son volunt et
 pleasure appiert a conueyer la terre al William come est a-
 uant dit, oue power de revocation, il per ceo pust le pow-
 er que lestatutes done a lui, quod Nicholls Justice concessit.
 Et sicoime eux statutes auoient este mise in vze solonque
 lexprese puruieu comment que damage ad accue al subiect
 come in Vincents casé brievement bouché y le seignior Dyer
 22. Elizabeth 367. fuit resolue que si le tenant le Roy in Capite
 per seruice de Chivaltrie conuey la terre al vse de sa femme &
 ses heires, ou al vse de son paisne fitz et ses heires, & morust,
 son eigne fitz deings age, q comment q leignie fitz soit disherite,
 vncoze afflictio addetio afflito, il sera in gard al Roy comet
 que il nad riens per discent per lexpres puruieu del statuté;
 issint nul interpretation sera fait pur le benefit del Roy en-
 counter lexpres puruieu; & que ceo accord Wray chiese Ju-
 stice in le dit casé de Butler & Baker 31. Et pur ceo si femme te-
 nant le Roy de terre in Capite ad issue file Bastard, & conuey
 lafre a s bastard file et morust, le Roy naia gard, car si soit
 deings less, de 32. H.S. couïet ce vn child in ley & vitie, & ney in
 reputa-

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reputatio, come est resolue in Thorntons case Dyer M. 17. & 18 El. f. 345. Vid. Dyer 12. El. 296. ¶ vncoze vn chauntery in reputation fuit adiudge deins lestat de 1. E. 6. cap. 14. 12. El. Dyer 368. in le Deane de Paules case. Et le chiefe Justice dit, q fuit resolue in le court de gardes in Trin' 25. El. q ou Sir Nicholag Straunge chivaler fuit tenu le Roy del manor de Hunstanton, et des diuers manors, terres, & tenementz, ten⁹ in Capit, in le ceuntie de Norff. & Hamond Straunge son eigne fils & heire apparant pchase les dits manors, fres & tenementz de luy bona fide p argent, & le dit Sir Nicholas morust, le dit Hamond de pleine age, & ce matter fuit troue poifice; & fuit resolue p Wray & Anderson chiefe Justices, quil ne patesc priermer lessin, car les pois des dits statutes sot, giue (que imply deste fait ex mera liberalitate & voluntate: Vide Bracton lib. 2. cap. 5. fol. 11.) & comment que les parols sont dispose & assigne, vncoze le conclusion est pur le prefement de ses chilidren &c. et purchase ne poet este dit prefement, car chescun prefement doit este auzy ex mera liberalitate & spontanea voluntat; et accordant fuit resolue (come abonques fuit dit) in Porriges case in anno 12. Eliz. Et Randals case in 4. & 5. Philip Mary Dyer 158. fuit cite per chescun des Justices in le argument de cest case, Homme seille in fee de terf de socage tenure, assure ceo al vse sa semie p la ioynture in anno 32. H. 8. et puis in anno 2. Ed. 6. il purchase terres tenus in Capite in Chivaltrie, et de 2. parts de ceo fist son volunt et deuise son heire deins age, et si le roigne auera rien del socage a faire pleine tierce part de tout, fuit le question; et resolue que non, car les parols del act de 34. H. 8. de explanation sont, and hauing no landes holden by Knights seruice: quel proue que le temps de hauing, holding in Capite per seruice de Chivaltrie, et del desposing, doit concurrer. Et diuerstrie fuit prise et agree inter disposition per execute in la vie del deuisor, et per son darreine volunt en escript: et pur ceo si home seille de terre tenus in socage del annuel vale de xx. l. per annum, et nad ascun terre tenus in Capite per seruice de Chivaltrie, et fait son volunt en escript, et per ceo si deuise le socage terre, a vn auerter in fee, et puis il purchase terres tenus in Capite per seruice de Chivaltrie al annuel vale de xx. s. et morust, cest deuisor ne sera pas bonie pur tout le socage terre car tiens est dispose ou transference ouster per le volunt tanque le mort del deuisor, et la fuit vn bunion del terre tenus in Capite et del terre de socage tenure, iust que le temps de hauing

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• hauing , holding , & disposing concurre ; & one ceo accord lop-
pinion in le dit case de Butler & Baker. Illint , & pur mesme le
cause, la est tenus que si home soit seisié des terres tenus per
service de Chiualtrie in Capite & des terres tenus in socage , &
per son volunt in escript deuise toutes les ditz terres , & puis
alien les terres tenus in Capite , que cest deuise est bone pur
tout la terre in socage , & plusors autres cascs a tel effect misse
in le dit case de Butler & Baker , quz poies beier la . Et ou le-
statute de 34. Hen. 8. dit , two parts as well of the said Manors ,
Lands , Tenements , Rents , and Hereditaments , as of all and singu-
lar his other Rents , and Hereditaments , Ceux d'arreine patoys ,
as of all and singular his other Rents , doient auer reference al
commencement del sentence , cest as auoit , hauing a sole Estate
&c. of or in any Manors , Lands , &c. holden in Capite , Car il na-
uoit aucun terre in Capite il nest restraine a deuiser foysque
deux parts , Car donques il poet deuiser tout ; mes ceux pa-
tols fueront necessarie de addre , car le commencement de
cest branch extende solement a enhabler l' tenant a deuiser &c.
2. part des terres tenus in Capite seulement , & pur ceo fuit
necessarie de addre as also of all and singular his other Rents and
Hereditaments , nient tenus in Capite p service de Chiualtrie ;
mes tous les patoys ensemble prouont (come ad este dit) q
le temps de hauing , holding , & disposing , doient concurter .
Quant al 4. temps , & a quel temps le value del terre dont le
Roy auera le tierce part sera pris , fuit resolue que le value
des terres sera pris come ils sont al temps del mort del te-
nant le Roy , Car donques per le sauant in case de act exe-
cute le title del gard ou primer seisin vest in le Roy , & in case
de volont ceo auxy pris effect p 2. part per le mort del tenat ,
& le 3. part descend al heire dont le Roy auera le gard ou pri-
mer seisin , illint que tempus appreiciandi , doit concurre ou le
temps del mort ; mes le temps del vesting in le subiect per act
execute & le temps del value ne concurreront my . Et le resolu-
tion de Vigill Parkers case in le 8. part de mes Reports le d'arrein
case , fuit cite & agree deste bone ley , ou le case fuit , que Vigill
Parker fuit seisié del Manoz de Fosbill in see tenus del
Roy per service de Chiualtrie come de son Duchie de Lan-
castre , Anno 27. Elizabeth , fust feossement dun halfe del Ma-
noz al vse de lui mesme pur vie , & puis al vse de Mary que il
intend a marier pur vie , ou divers remainders ouster , il ma-
rie Mary Long , et puis demise lauter halfe a divers
pur payment de ses detz et legaciez et morust ; et fuit resolue
que

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que incane queladument de son aphe est cibien deins le statut come plement deses ditz, & l'estat (as the values) principiait plus son effect per le mort del temps le Roy, a cest cause toutz q' estoient la feine ad le p'stendencie, fuit resolute que le 3. part del Roy seroit p'le equant hors des ambidens halles, & ney hors del halles il deusse soleint, & accordant, c'ce appoient la, a desse resolute diuers soies devant. Quant al 5. temps, s. a p'soulder vs 3. part a discender, en alcauoir que si homme seist de certaine terres part de queux est tenus in Capite per service de Chualtrie al annuel value de 60.L per annum, toutes queus terres il conuey a vndes ditz 3. bles, & puis purchase terres del annuel value de 20.L ou plus in tatie ou in fr. & iasse ceo a discender pur le 3. part due al Roy, ceo est assets bds. Cat cest temps a prouider vn 3. part ne besoigne a concurret ou le temps de having, holding, ou disposing per act execute, Mes lassent si cest temps concurret ou le temps del value, s. le temps del mort del tenant le Roy, & ces appoient per le expres letter del Act de 34.H. & C. That the King shall take for his full third part, such Manors, Lands, &c. as shall descend in fee taile or fee simple, sans aucun parolz de reference ou restraint, ou aucun buntion fait de ceulz terres que discender due le terre tenus in Capite per service de Chualtrie, come les auers clauses auantdicts sont. Quant al 6. temps, s. temps continuum, a aucun instant temps couient a continuer usque ad mortem, & in aucun casse post mortem; usque ad mortem, l'estate conuey al aucun des ditz 3. purposes couient continuer lesque le mort del tenant le Roy, come est resolute in Binghams case in le 2. part de mes reportz fol. 91. post mortem 1. Le tenure per service de Chualtrie in Capite couient a continuer post mortem, car si le tenure soit forisque durant le vie del tenant, issint que ceo ne continue puis son mort, ced ne restainera le deuse de les auers terres, come est tenus in le dit case de Butler & Baker : 2. l'estate del terre tenus couient a continuer puis le mort del tenant, & pur ceo si tenant in taile soit a luy & a les heires males de son corps, le remaind infer al auer, de terre tenus per service de Chualtrie in Capite, & est seiste des auers terres in socage in sea, & person volunt in escript si deuse toutes les socage terres & moysust sans issue male, in cest casse le deuse est done pur tout le socage terre, car l'estate del terre tenus determina per son mort, issint que ne fuit aucun cause de gard al common ley, mesme la ley si l'estate del terre tenus soit deuse per condic-

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condition puis le mort del tenu Vide 13. Reginz Eli Dyer fol. 3.
Le primitif de heire le tenu doit continuer puis son mort, & pur
ceo si le tenu le Roy in Capite conuey tout son terre al aescu des
dits 3. bles, & puis est attaint de treason, & puis il morust son is-
sue deing age, in ce cas le Roy naua le gard, pur ceo q il mo-
rust saung heire in respect del corruption del lanke, & in quel
cas nul gard poet accrue p le common ley, cõe fuit resolue in
S. Euerard Dibies case Mich. 7. Iac. in le 8. part de mes Reports
fol. 165.

1. Si le bse limite per les dits Indentures tripartite al
William Loueis in taile oue le remainder ouster soient in
contingencie ou nemys, ou si les bles soient maintenanc ex-
ecute per lestatute de 27. Henry 8. des bles in William Lo-
ueis oue les remainders ouster, & le chiefe Justice teignoit q
les bles fueront in contingencie, & nemys execute tanque le
mort de Leonard Loueis laiel, car quant il ad per les dits
Indentures lunit a luy mesme estate pur vie, & sur le matter
power a faire leases pur vie, vies, ou ans, sanz aescun restraic
des vies ou ans, donques quant le limitation est ouster al bse
de la performance de son testament & d'arreine volunt, & al bse
de teli person & persons seueralment a queux il per son dar-
reine volunt deuilerat aescun estate ou estates, per ceux parolz sâz
question il poet deuiler le dit terre al aescun person in taile, ou
in fee (car il ad power deuant a faire leases pur vies ou ans,
sans aescun limitation) & per consequence le bse lunit a Wil-
liam Loueis in taile oue toutz les remy ouster sont in conti-
ngencie; car ou est in aweroust & incertaine le quel le bse ou le
stat limit in futuro vnquez vester in estate ou interest ou ne-
my, la le bse ou estate est dit in contingencie, pur ceo que sur
future contingent ceo ou poet vester, ou ne vnques vester,
come le contingent happena; & pur ceo est diversitie inter un
tel contingencie come est auantdit, & limitation des estates
per parols de contingencie que extendent sur limitation des
former estates & queux vesteront in estate ou interest mainte-
nant a prendre effect in possession in futuro, come in 5. Edward
3. 27. William lessa a John pur vie de John, render a Will-
liam rent de xl. s. durant le vie de William, & apres le mort
de William a John & ses heires, ces remainder a John
ne poet vester maintenaunt, pur ceo que peraduenture ceo
ne vnques vesteront in estate ou interest, & le contingent in cest
cas est le temps del mort de William, car si William morust
vivant J. S. le remy est bone, mes si William surviuve John

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Leonard Loueis case.

¶ morast apres luy, le remainder est voidre. Vide Pl. Com. in Colchirists case. Pasch. 36. Reginæ Eliz. Ro. 348. inter Acton & Hore in banke le Roy le case fuit, que fine tuit leute al bles de A. ¶ les heires males de son corps tanque il ou les heires males de son corps ad fait tiel chose, ¶ puis tiel chose fait al oeps dun auer en tasle, ¶ morast sans issue sans aucun chose fait, ¶ fuit adiudge que le remainder fuit in contingencies ne unques eschie. Si un ad fait seuerall leases de 2. seuerall acres de terre pur deux seuerall et diuers termes cibien in commencement come in fine, et puis fist lease dambz-deux acres a commencer apres le determination des dit seuerall termes pur xl. ans, ceo ne expectera a commencer apres le darreine lease, mes vesterai maintenant in interest reddendo singula singulis, come est adiudge in Iustice Widhams case in le 5. part de mes Reports, folio 7. (& Vide 6. Edward 3. 53. bone case. Vide Borastons case inter Hinde & Ambry in le 3. part de mes Reports) car ceo vest maintenant in interest a commencer in possession apres le determination dun foymet terme pur ans : Mes in le case al barre tieng poet vester per le deuise a William Loueis ne les remainders ouster tanque le mort del deuisor, pur ceo que il ad powe per son volunt a deuiser al aucun person quel estate soit ceo in fee simple s'il voit, ergo, ceo ne poet maintenaunt vester in William Loueis, ¶ per consequence in nul des remainders, sur que ensuit que in le meane temps le ble del fee vest arere in Leonard laiel (come fuit adiudge in Sir Edward Cleres case) et donques il fuit seisié des terres tenus in Capite al temps del purchase des dits 8. acres in queux ¶, ¶ a cest cause, il ayent dispose deux parts per act execute solonque lestatute il ne poit deuiser les dits 8. acres, car apert per le record que il ad conuey per le feoffement terres et tenements al annuell value de lb. li. vi. s. viii. d. ¶ la terre mention dest deuise nest foysq al value de xxiiii. l. viii. s. x. d. per annum, ¶ le feoffement ne poit extender a les dits 8. acres, car il s'fueront purchase apres, mes esteant un darreine volunt sera direction a declarer bles sur le feoffement; ¶ quant la terre passerà per le volunt in ¶ quant per le feoffement, Vide le dit case de Sir Edward Clere. Mes encounter ceo fuit obiect, que le fee que Leonard laiel ad per opera et de Ley vanish per le mort de luy, tant q il fist nul disposition del terre in fee simple y son volunt, q fuit grant come ad ee resolute deuat. Mes fuit rnde ¶ resolute, q le dit reuersio

in fee expectant sur lestate taile ne vanishe, come pleinement appiert. Auter obiection fuit fait, que entant que les parols des Statutes de 32. & 34.H.8. cont, lawfully execute in his life &c. in cest case, intant que les dits bles tuez in contingence nul execution dascun estate fuit lorsque apres le mort de Leonard laiel, & issint hors del statute. A que fuit responde, que puis le mort de Leonard laiel les dits estates fueront deriner & perte leur essence et effect per force del dit feofement fait, et issint sur le matz execute in son vie. Aury fuit tenus per le chiese Iustice, que le remainder al William Loueis per le volunt est contingent, intant que nul alienation est troue deste fait per Thomas, car in effect est devise a Thomas et ses herites males, prouided que sil alien ceo, que donques ceo pur default d'issue male de son cozps remainera a William ac. issint que sont deux maine impediments al remainder, s. que ne fuit aucun alienation, et si auoit este alienation donques aury serf repugnant que apres alienation que le terre remainera al William, et issint quacunque via dara le remainder, come cest case e. ne vest in William. Et les seueral pennings del devise a Thomas oue contingence a remainder ouster a William, & del devise a William et le rest ouster, fuet obserue, que prouont seueral intents in le testator, come appiert in Edriches case in le 5. part de mes Reports fo. 118. si lestatute de 32. H.8. de Rentz. Mes cest point ne fuit resolute p le court. Aut point al common ley fuit aury moue in ce case, s. le q il le dit reuocat in le rec mené fuit suffisant ou nemy : touchat que sont 3. choses deste consider, 1. so power reserue a lui p le prouiso de reuocatio, 2. in le reuocat sil ad pursue son power ; primerisit, les parols del power devindont eux m in 5. branches, 1. que si le dit Leonard Loueis laiel serf dispose to alter, change, or make voide predictum feofamentum &c. 2. vel aliquem vsum seu vsis &c. superius limitar, 3. vel aliquem statum vel status qui accrescerent seu execut forent ratione alicuius vsis &c. 4. aut si predictus Leonard Loueis auus disponerer rehabere omnia & singula pdict maneria &c. vel aliquam partem eorundem, 5. vel eadem maneria vel aliquam partem eorundem disponere vel donare in aliquo alio modo, vel eadem aut aliquam partem eorundem rehabere eidem Leonard et hæredibus suis, vt in pristino statu suo &c. et superinde significaret voluntatem & bene placitum suum inde al fesseegou asse de eux &c. quod tunc immediate &c. les manors &c. seront al bse de Leonard Loueis laiel & ses herites, vt in pristino statu suo.

Leonard Loueis case.

Donques le reuocation estoit sur 2, parts, i. il signifie al fes-
fes que tant de le fesement & les Indent que concerne cer-
teine mannoz ser^t boide; que fuit obiect ne poet este pur ceo
q^u lendentur fuit fait 26. Septemb. an^r 12. regin^e Eli. & le feoffe-
ment fuit fait 28. Sep. ensuant, & pur e lendenture pcedent ne
poet auoider le feoffement q^u passa p livery subsequent: auxy il
Declare that so much of the fesement & Indentures & no more as
concerne only parcel of the premisses ser^t boide, & admittant q^u
fesement & Indent poent este auoide & faits void in tout, vnc
ne poët este auoid in part, s. le fait del Indent, quo ad vn ma-
nroz destre fait void & a pder son force, & quoad aut^r a estoier cõe
vn fait, & de tiel effect come fuit obiect est le 2. branch, s. I wil
that so much and no more of the said feoffement and Indentures,
and every clause and article therein contained to bee vtterly fru-
strate and voide &c. 3. Le nature del choses destre reuoke fuit
consider: que tous les declarations & limitations de les
vles in lendenture al temps del fait del reuocatio fuere sole-
ment in contingencie, & riens in estate in possession, rever-
sion, ou remainder, ou in interest, mes solement in possibilite,
le quel ne poet este reuoke, ou chaunge, ou alter, car reuoca-
tion, alteration, ou chaunge presuppose vn forme^r essence,
come le rule del Logitian est. Omnis priuatio presupponit ha-
bitum: & comment que futures powers et authozities annex^e
al estates, come power a faire leases &c. donez a cest^r que ad
estate pur vie poent que lessates este reuoke, vncore fuit ob-
iect que quant tout est in contingencie ou possibilite, ceo
ne poet este reuoke, et le vle que per operation del ley fuit
best in Leonard Loueis latell ne poet este reuoke, car le pro-
viso de les Indentures extende solement al vles declare per
mesme les Indentures, et nemy al vle create per la ley.
Mes fuit responde et vnement resolute per le court, que le re-
uocation fuit assens bone, car vles & powers in contingency
et possibilite poent este per mutual assent dez parties reuoke
et determine, car sicom ilz poët este raise per Indenture, issint
per prouiso ou limitation annex a eux in thi lendenture ilz
poent este extinet & distroy, ou devant ou apres lour essence:
Et fuit resolute, q^u ceux pols, the said Indentures & euery clause
and article therein contained, extendornt a tous les vles et
limitations in contingencie & possibilite. Et ce resolute con-
curre oue common experience, s. q^u estates limit al 1, 2, 3. &c.
fit^s devant q^u as^r loient nees, sont p autiels puisees vnuall-
ant, & sans q^ustion de lour in lour reuoke. Et sans question les

Inden-

Indentures, quant al direction & declaration des bles, poët perdr lour force in pt & estoier in part, & si le operation quæ al part soit tolle per le prouiso, donquez le lessent pur cest pt est al bie del feoffez & les heires, & p consequence in le case al barre ou Leonard Loueis ad bie best in luy per operation d^e ley sur le feossement tanque auter declaration fuit fait p son volunt, oze per le reuocac^t il ad absolute estate en fee simple ut in pristino statu suo sans aucun limitation.

Auxy le chiese Justice reigne, que le dit deuise a Thomas fuit foiz pur ans, p ceo que issint est in expres pols deuise, & encounter expresse parols nul inference ou interpretation sera admit in cest case, car les parols sont, Item I giue, grant, will, and bequeath, to my sonne Thomas, all my Manors, &c. To haue & to hold to my said sonne Thomas, and to the heires males of his body lawfully begotten, from and after my death, for and during the terme of five hundred yeeres then next ensuing, fully to be compleat and ended &c. & les remainders a William Loueis & auters, a chescun de eux & a lour seuerall heires males de lour corps sauns aucun restraint al aucun number des ang, & Nota le libertie done al Thomas est in ceut parols, otherwise then to lease &c. the same for yeeres determinable upon the death of any three persons, or less number of persons, mesme in le libertie done al William & les auters, les parols otherwise then they may lawfully doe by the Statute of 32. Henry 8. quel act il ne mention in le deuise al Thomas : issint intaunt que Thomas nad estate foizque pur cinquante ans, cy long come il ad issue de son corps il done a luy power foizque a demiser pur ans, mesme al William que ad estate taile, il layse a luy power a demiser le terre pur 3. viies ou 21. ans solonque lestate de 32. Henry 8. que done tiel power al tenant in taile : & ou ceo accord Winche Justice. Mes ceut parols, during the terme of five hundred yeeres sera limitation al terme dans a determiner ceo pur default dissue male. Et que ceo nest foizque termes pur ans in grats les livres sont expres in le point, 11. Ass. 21. 33. Ass. p. 17. 39. E. 3. 37. 19. E. 3. Account 56. 9. H. 6. 58. 22. H. 6. 33. 34. H. 6. 27. Litt' 168. Dyer 10. El. 276. Vid 21. H. 8. tit' Estates B. semblable. Mes q^tnt a cest point q ad estre controûte d^e cest court & le court del banke le roy in former action poët sur cest deuise, nul resolution fuit a oze quant a cest point per le court. Nota, Leceur, si un terme soit deuise a un & a les heires males de son corps, son heire nauera ceo, mesme ses executors, car

Leonard Loueis case.

terme que neli que chateell ne poet este intaille , et tel denys
les poet bien alien le terme a que il voit : & fistne fuit adiudige
Tr'z 8. Eliz. es banke le roy in Peacocke case, & anno 21. Eliz. re-
solue per Anderson & Walmsley estant referte al euy hys
del Chancery inter Spigging & Milles.

Hillar



Hill. 8. Iacobi Regis.

Doctor Leyfields case.

Dohn Leyfield Doctor de diuinicie port
action de Trespas in banke le toy Hill 8.Ia.
Regis rot' 1282. vers Henry Villarie des
blees & feine priez a asport al Old Clene
in le Countie de Somerset, le defendant
pleade in barre que le roigne Eliz. fuit sei-
sie del Rectozie de Old Clene in mesme le
Countie in son demesne come de fee come in droit del copone
d'Angleterre, & per les letters patentz 20. Junij 35. de son reigne
(sans dire cy monstre auant) demise le dit Rectozie al Conad
Prowle pur son vie, que r6. Januarij anno 3. fac. Reg. demise le
dit Rectozie al George Bincombe pur 8. ans & le dit Conad
tam dhu viveret, & que le defendant cōe keruant del dit George
prise les blees & leyne come dimeses leuer del 9. parts, & auert
le bē del dit Conad, pur que le plaintif demurre in ley &
monstre le cause de son demurrier, pur ceo que le plea le def.
amount al generall issue : et fuit adiudige in le banke le toy
que le barre fuit insufficient, pur ceo que le defendant, in son
plea ne monstre al court les letters patentz le roigne Eliz.
fait af Conad Prowle, le quel le court p̄ist deesse matter de
substance & queas le defendant dobet auer monstre auant,
coment que il in que droit il iustifie nauoit forsque parcel del
estate : pur que brieve de Error fuit port in le chequer Chamber,
& la 2. error fuet moue, lym, que fuit assigne pur le def.
pur son cause bl demur, corrasauoir, q̄ le dit plea amount al
generall issue, pur ceo que le defendant ne dona al plaintif
ascun

Doctor Leyfields case.

ascun, colour, in quel case nul Judgement duissoit auer estre done vers le defendant, mes le court duissoit auer rule iuy a responder ouster, le 2. que put default de monstrans deg ditz letters patent le court ne doit auer done iudgement verz le defendaunt pur 2. causes, i. pur ceo que per la ley les letters patent ne besoigne destre monstre auant, 2. ilz dootent este monstre auant, vnoce ceo nest foysque matter de forme et nemy de substance, a pur ceo per l'estatute de 27. regin Elizabeth cap. 5. intant que il nad monstre ceo pur ascun caule de son demurrer, il ne prendra aduantage de ceo. Quant al p'mer, fuit obiect, que le dit plea in barre amount al generall issue, pur ceo que le defendant nad done ascun colour al plaintife, ne ascun possession sur que il poet foundue son action, a sur t'ilz citont 11. E. 4. 65. In trn's de certaine charets des aueing prises a importes a Bodmon vers le Prior de Bodmon, le defendant dit que les blees fuet cresceantz in certaine lieu in B. in le parish de Bodmon, de que il fuit parson inparsonnee, a (esteant chale per le rule del court a monstre comment il vient a mesme le parsonage) dit que il auoit le impropriatis per title de prescription, a comment les blees fuet leuer de 9. parts, a que il les pris come ses biens demesne (a done colour) que il eux deliuer al un T. que eux baille al plaintife a garder, a le defendant eux pris. Et in 21. H. 6. 30 Robert p'son del esglise de Clifford port brieve de trn's vers plusors, et count de ses biens pris a importes, s. frument, orge, 3. couerlets, 3. linthians : quant al frument a orge le defendant dit, que deuant le trespas un A. fuit parson del dit esglise, et les parochians auoient semé lour terres que frument a orge le p'mer iour de May, a apres le dit iour le dit A. fist les defendants executors a morust, a done colour al plaintife, que il fuit institute a induit parson del dit esglise, a puis les parochians leuer lez blees del 9. parts, a plaintife come parson pris lez blees, a lez defendant come executors pris eux hors de son possession. Et 19. H. 6. 20. in trn's vers B. prior de L. de son close debruse a ses herbergs in garbes esteant pris a importes, le defendant quant al close plead son franktenelement, al garbes il dit que il mesme est parson inparsonnee, et que le lieu ou est tant de terf de tiel ville deins mesme le parish (et fuit chale per le court a doner nosme al lieu) a q' garbes fuet la cresceantz a leuers del 9. parte, a vous enclain destre parson de mesme lesglise per le presentement le roy p' les letters patentz ou ne fuist institute a induit, prisest mesme leg

les garbes, & no^o reprisomus, & la sable al Fortescue & New-
ton que le colour ne fuit bone. Et 2. Hen. 4. fol. 5. le Vicar de
Haltashe porz brieve de Trespass des biens imposz in S.
le defendant alledgede que le Deane de Windesor fuit parson
de S. & il come servant prist ceux bienz come bienz son mai-
ster, & le plaintife boille auer pris les biens de luy, & il ne
boille luy pas luster, et rule per le court nul plea, pur ceo que
le def. ne conust nul possession in le p^l ne propertie in luy al-
ascun temps des dits biens, 34. H. 5. 10. b. Labbot de Saint
Mary de Cuerwick sue brieve de Trn's vers John parson d^l
esglise de D. de 30. l. a D. in le countie de Cuerwicke prise : le
def. dit que il y ad bu Chappel de nre Dame in le citie de Cu-
erwicke deins le parishe le def. en le Cappell de quel est bn
image de nostre Dame, a quel le people vse de offrir oze & ar-
gent, et que les dits 30. l. fueront offrir illonques, que il prist
come bien a luy list, et done colour al plaintife, cestassauoir,
que il deliuera largent a B. garder at vse del defendant,
le quel deliuera largent al plaintife, et le defendant prist ces
hozs de son poss. &c. Et in 39. H. 6. 1. & 2. In Trn's le plaintife
count de 2. chivalz a tort pris, le defendant dit que le feig-
nour de Latimer est seignior del baronie de Godford, le quel
est bn auncient baronie & ad este de temps dont memoirie ne
court &c. deins quel il a tous les auncestoiz, & tous ceulz
que estate il ad in le baronie, ont ewe waife, & fray de temps
&c. & dit ouster que les dits chivalz fuez emblees & amesnes
deins le baronie ou &c. et la les chivalz waina, per que le
defendant come servant al dit seignior & persou commandeme-
ment seilist &c. & le plaintife eux prist & le def. eux reprist :
Et exception fuit prise a cest plea, pur ceo que le def. ne done
al plaintife ascun colour, car comt que ils fuez waines hozs
de son franchise & le defendant eux seilist, le p^l nad colour de
eux prender, per que le defendant dit que le plaintife suppo-
sant que le propertie fuit in luy deuant lembleer prist, mes-
p totam curiam que le pice ne vault fauns dire in fait que le
propertie fuit a luy, per que il plead accord. Et mults aut^s
cas^s fuez mise a cest purpose, que ieo de purpose omisse. Vid'
22. E. 4. 23. Encounter que fuit argue per le counsell del au-
ter partie, que in cest cas^s ne besoigne a doner colour pur 2.
causes, 1. pur ceo que le defendant iustifie come servant, 2.
pur ceo que le commencement del barre est que les letters pa-
tentz le rogne. Quant al primer, 18. E. 4. fo. 3. fuit cite, ou in
trn's de Close debuse et 30. Charretz de frument pris & im-
posez,

Doctor Leyfields case.

poit, le defendant plead que vn Sir C. M. fuit seise dun
carue de terre dont le lieu ac: in son demesme come de fee, et
emblea mesme le terre oue frument, & le defendant come son
seruant & y son commaundement enter in mesme la terre et
scia le frument a eux pris oue luy come bien a luy list, & feme
moue que le barre, pur ceo que le defendant ne donera aucun
colour, & fuit tenus per tous les Justices que il ne donera
colour al plaintife in ceo case, pur ceo que in rois cases lou
home iustice come seruant a vn autre et per son commande-
ment, il ne donera al plaintife nul colour. Quant al 2. tous
fouts le colour doet este done per cesty que est primer in le co-
uriance, ou autrement tout ceo devant est waine; & que ceo ac-
cord 10.H. 7.14.15.E.4.32.18.E.4.10.& 22.E.4.25.3 in ce case
le roigne Eliz. est le primer in conueiance per les letters pa-
tents, et le defendant ne poet suppose que le defendant clame
per colour de former letters patents, car donques ceo done-
ta al plaintife bone title, come in 12.Hen. 6. tit' Colour 54. in
trn's de close Debuse, le def. dit que vn H. luy infesse, & le plainti-
fe enclaymant per colour dun lease fait a luy a terme dans
deuant le feofement ou riens passa enter ze, & la Fitzh. sem-
ble que tel plea nest bone, car si tel lease fult il passa main-
tenaunt, & quant il plead que le plaintife enclaymant per col-
our dun lease pur ans ou riens passa, ceo est repugnant in
luy mesme, car quant il dit per colour dun lease, cest patol
lease imply lease in ley, car autrement nest pas lease, come
in Affle nest plea a dire, que vn H. luy infesse, & le plaintife
enclaymant per colour dun feofement ou riens passa enter,
car le ley entend que si nest feofement sans littery, & pur ceo
il est vse de pleader que le plaintife enclaymant per colour
dun fait de feofement ou riens passa ze, car per le fait sang
liuerie riens in verite passa: Ilent si le defendant dira in le
case al barre, le plaintife clame eins per colour de former
grant le dit roigne per les letters patents ze, ceo implie loy-
all grant ze. Des ambideux ceux causes fuet disallow per
les Justices. Car quant al primer, boire est quant le defen-
dant in trn's ze, plead que le franktenement est a J. S. & que
il per son commaundement enter, ou que J. S. est seise de
son demesme come de fee que est tout vn (come le livre est in
18.E.4.) et que le defendant come seruant a luy & per son co-
maundement enter, la il ne besogne a doner aucun colour,
pur ceo que nient obstant que le fee ou franktenement soit
al vn, vnoze le plaintife poet auer lease pur ans ze, & que
ceo

ceo accord 22.H.6.50. Mes quant speciall title est fait, come
in 2.R.3.8. John Atwood port Trespas de son close debuze
ds vn John Dingle & n. Dingle, les defendantz diont que
vn Thomas Atwood fuit ent seisli & infess J. B. & R. S.
queux infoisont S. John Roxbury Chiualer, & le dit John
Dingle in less droit demesne, & le dit n. come seruant a luy,
& done colour al plaintife per le dit Thomas Atwood : et
1.H.7.19. Robert Rednesh port brieze de forcible entry sur le
statute de 8.H.6. enuers J.B. qui placitauit quod Iohannes
Hoke & Henricus Atwood fuit seisiti &c. & feoffauerunt Fines &
Sackuile in feodo, & le defendant ut seruiens &c. et dedit colorem
prout oporter, & trauers le force; car quant le defendant fait
speciall title a cesty in que droit il iustifie come seruant, la ne
serra intend que le plaintife ad aucun interest in la terre, & il
sint diuersity. Quant al 2. reason le defendant couient do-
ner colour per formar letters patent, cestas cauoire, colore
quarundam literarum patentium fact' præd' le plaintife de tene-
mentis predictis ante &c. pro termino &c. vbi nihil transiuit, & ne
dirra que le pl' enclamant colore concessionis siue dimissionis
&c. mes colore literarum patentium &c. & que le colour serra
done in tiel case appiert in 7.H.7.14.a. ou in m̄ le case colour
sunt done.

C Mes fuit resolute que in le case al barre colour ne doet
este done al pl'. Et le reason q̄ colour serra done in b̄e dentre
sur disseisin, brieze dentre in nature Dassie, Assise, Trespas, &c.
est que la ley (que preferre & fauour certainic come le mier d'
quiet & repose) al intent que ou le court adiudgera sur ceo si le
plaintife demurre, ou q̄ certain issue poist este p̄ise sur vn cer-
taigne point, require que le def. quant il plead tiel spacial plea
que ceo nient obstant le pl' poet auer droit, le def. dona colour
al plaintife, au fine que son plea ne amountera al generall
issue, & issint a layler tout le matter a large aux iuroz, q̄ lez
pleine de multiplicite & perplexite de matter. Et comment q̄
le colour ne soit q̄ fiction, bncore lex singit vbi sublilit & quitas:
Vide Doctor & Stu.ca.53.fol.160. Mes quant lespecial matt
del plea, nient obstant q̄ le plaintife auoit droit devant tout
ousterment barre luy de son droit, in tiel case le defendant ne
besoigne a doner aseū colour, pur ceo que il barre le plaintife
de son droit si aucun il auoit, in quel case serra in vainne a don-
al pl' colour ou il appiert sur le matter del plea, que il nauoit
droit: Car pur ceo in real action, come Assise, brieze dentre in
nature dassi. &c. Si collateral gart soit plead, & le def. reliefs ceo
ou

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ou si l'Esoppel soit plead, ou sine leste une proclamation &c.
la ne besoigne aucun colour deste done, pur ceo que le plain-
tife est barre coment q il auoit droit, & que ceo accord 35.H.6.
titulo Trespas 160. issint & pur mesme le reason si l defendant
conuey a luy title per Act de Parliament, come est tenus in
3.E.4.2. Quant vn iustifie son entre per cause quelle le plain-
tife du son lante a toutes iours, il ne donera aucun colour ; et
que ceo accord 22.E.4.4. Vide 5.H.7.10. 3.E.3. titulo Ass. Mes
si home plead discent in barre, vntoze le defendant conuent
doner colour, car ceo lia le possession & nemy le droit, come est
agree in 19.H.6.41. & 22.H.6. Si in Trespas des biens im-
portz le def, iustifie pur ceo que il ad wass deins son Manoz
& monstre qvn éble les dits biens de quodam ignoto & walue
eux deins mesme le Manoz, per que le defendant eux seint,
ceo est bone sans aucun colour ; & que ceo accord 12.Ed.4.5.b.
Mes fuit la tenus per tous les Justices, que si le defendant
est dit, que il fuit possesse des biens come de ses biens propres
& que vn B. est emble les biens ut supra, que il conuent a do-
ner colour al plaintife, car doncvez il prouve que nul property
fuit in le plaintife, issint il nad colour daction : mes la in
le case il monstre que ils fuit emble extra possessionem cuius-
dam ignoti, issint nest dedit mes que le propertie fuit al plain-
tife, & il nest tenus a monstre expressement in que le propertie
fuit. Mesme la ley dun bender in market ouert, sil est dit q
vn tiel vend, il ne besoigne a doner colour, mes sil dit que vn
tiel fuit possesse des biens come de ses biens propres & luy
vend in market ouert, il conuent doner colour : & tout ceo ap-
priet in le dit liure de 12. Ed. 4. Mes semble a moy que le dit
case nest bien report, car le reason la rendus fait encounter
lopinion des Justices, car lour reason est que le plea ne sera
bone sans colour quant le propertie est alledged in person cer-
taine, pur ceo que est prouve que nul propertie fuit al plaintife
& issint nad colour daction, ergo, ceo est bone cause que nul co-
lour sera done, pur ceo que ceo est absolute barre del proper-
tie & tout le droit del plaintife, come appriet devant ; & issint
est le liure in 32. Henry 6.1. in mesme le case quant le proper-
tie est alledged in person certaine : & que en accord 21.Ed.4.18.b.
& 21.Ed.4.65.a. Et ou in 9.Ed.4.22. le defendant quant il iu-
stifie pur wreche done colour, est tenus in 21.Ed.4.18.b. & 21.
Ed.4.65.a. que in tiel case nul colour sera done, & le reason de
tous les autres liures accord ou ceo. Issint quant le mat-
ter del plea barre le droit del plaintife nul colour sera done.

Auxy

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Auxy quant le defendant tint le luy per le plaineife dñ, nul
colour sera done 13. H. 7. 3. H. 7. 14. Auxy quant l'ame plead
al brieve ou al action del brieve, nul colour sera done, 21. Ed.
4. 4. Et pur le cas des distincs que est le cas al barre, cest
que iustice pur eux ne donera colour, car a quelcunque le
property est, a quelcunque que fuit ruz del 9. parts, eux app-
pent al parson; a que ceo accorde 12. Ed. 4. 12. 21. Ed. 4. 18. b. &
65. Et quant aux ditz cases quez ont este enuse del contra-
rie part, 1. in le cas de 21. Ed. 4. 6. ou colour fuit done in cas
de distincs Brian chiefe Justise la teyne, q'ne fuit de necessite
destre done, car tel plea fuit done sans colour; a quant al
cas de 21. H. 6. 30. la colour fuit done, mes per nul rule de
court; a l'opinion in 19. Henr. 6. nest al contrary, entant
que il imprest a doner colour, si astur fuit necessary, celi co-
lour que il done ne fuit bone. Le cas de 2. Henr. 4. nest dasun
distincs mes dautres biengs, a que ceo nest destre ressemble a
cest cas: In le cas de 34. Henr. 6. 10. ne besoigne aucun co-
lour destre done, mes la Moyle vers le fine del casse dit, il ast-
cur prent mes biengs ou deniers, a offrir eux a un image, in
ceo casse ieo sue barre vers luy come des biengs vendus a tol-
le in faire ou market, in quel casse nul colour sera done; Et
quant al cas de 39. Henr. 6. 1. & 2. le casse de walle, qu' le de-
fendant alleadge que le property fuit al plaintife & fuit re-
solue que nul colour sera done; a appert devant per 12. Ed.
4. 5. a les autres litiges que nul colour sera done in casse ou l'
def, alleadge que les biengs semblent walle fuit bona cuiusdam
hominis ignoti; a in le fine del casse de 39. Henr. 6. 2. le Reporter
dit, Quare si besoigne in cest casse a doner colour al p', pur ceo
que per cest plea le property des chivalx nest dedie al
plaintife devant lembleer, a donques semble le plea bone &;
colour; a la le Reporter ouster dit, Vide tel matter in Repl.
an. 5. E. 3. Iout il ne done aucun colour lout il auoit pur wrecke
de mere, a le casse que il intend est in Hillar. 5. E. 3. fol. 3. Willi-
am de Newport de Londres port Repl' vers Sir Henry de
Beailli chivalier, a count de p'ssell de ses chateux a la baume
sc. cestassauoire, 10. lastes de Herrings in la ville de Wal-
ring, le defendant plead, que les lastes de herrings furent levers
per tempest de la mere hors de chescun gard sur nostre ter-
re in Waling ou le plaintife ad court, a le defad franchise
de wrecke per tout le bille come apprendant a nos manos de
Waling, a issint nre proper chattell, iudgement il a ete bte
deus estre eschue; a in cest casse deus points furent resolue.

Q

1. que

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1. que encouint ce special matin le plaint ne fuit receue a simple auermet launs rādee al cause, 2. nient obstant que le defendant ne conusoit q̄le property fuit al plaint al alcenn tēpz, bnoce le plea fuit bone, car q̄nt chateux sont foundres in la mere, donq̄s sont ils hors de chescun gard à possession, doncques le seignior sur q̄ tres ils sont iects nad my a conuster a q̄ les biens fuet, à p̄t per le rule del court fuit chale a rāder, p̄ que il dit que le def. prist sez chateux hors de gard dez merchants & mariners, prist, & le def. fuit chale a prendre issue p̄ reo per le court : in que est destre obserue, que si le def. ad generalitati clame property, il dira non solement q̄ le property fuit a lui, mes ouster à nemy al p̄t, ou autrement il ne respōd al count ; mes in le cas al barre, pur ceo que le matter del plea barre le p̄t de son droit, il ne besoigne a dedire le property del p̄t. Nota Lecteur, chescun colour couient dauer 4. qualités, 1. couient este un doubt aux lates gents, 19.H.6.21.11. H.4.3.19.E.4.3.23.Hen.6.54.10.H.6.8. 36.H.6.tit. Trn's 162. 36.H.6.7. 20.H.6.27. Come ou le def. dit q̄ le p̄t enclamait p̄ colour dun fait de fessent ac. c̄ ē bone, car est doubt aux lates gents si tēz passé p̄ fait solement sans līsuy, ou nemy. 2. Que colour come un colour doit auer continuance coift q̄ il fault effect, come si le def. done colour per colour dun fait dun demise al p̄t pur vie de J. C. q̄ devant le tēz fuit mort, c̄ nest aucun colour, car c̄ne continue, mes le def. biē poit dedire lessent de c̄, q̄ il clame per colour dun fait del demise a lui pur son vie ou riens passé, & issint diversitie inter le continuance del colour, & lessent de ceo. 2. Edw.4.19. 19.Henr.6.21. 9.Hen.4.3. 8.Hen.6.9. 14. 38.Hen.6.67. 9.Edw.4.18. Vide 19.Edw.4.3. 7.Hen.7.13. & 14.3. Couient este tiel colour q̄ si fuit defaut maintenir a le nature del action, come in Aillie a doner lui colour de franktenement, & nemy come garden in chivalrie, 2. Ass.pl.6.28.Ass.pl.28.43. Edw.3. tit. Ass. 53.32.Henr.6.6. ne a son auncesbour ou laction est de son possession demesme. 4. Colour couient este done per le primer conueitance come ad este dit, ou autrement tout le conueitance devant est value, 10. H.7.14.15.E.4.32.18.E.4.10.& 22.E.4.25.Long 5.E.4.134.21 H.6.32.

Quaunt a lauter error que fuit assigne, les dits deus points fueront arguē, 1. Si les letterg patents dolent estre monstre per le defendant que iusticie come servant a lui que nad forsq̄z parcel del estate de cesty a q̄ lez lēs patēts fueront faits : 2, admittant que il doit monstre eux si le omission

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omission de cest clause (cur' hic prolat') soit matter de substāce ou matter de forme, car si soit forſq; matter de forme, donq;s intant q; le plaintife nad mēe ceo particularmēt à expreſſant pur son cause de demurre, il ne prendra aduantage de ceo p'r dit statute de 27. Eliz. cap. 5. Et qn̄t al p̄m Awstins case 1. & 2. P. & M. Dyer 115. fuit cite, ou in informac de intrusion in le Manor de Eastfarleigh in Kent, le def. pleadis patens le Roy H.8. al S. Thomas Miat in taile, & q; S. Thom̄ lessa a luy pur xxxvi. ans sans monſtre ayant al court iez l̄es patens, & le S̄r Dyer in reportant le case dit Nota hoc; & ceo estoit cum fuit dit sur grand reason, car le lessee ayant forſq; parcell del estate, les iſes patens ne appent a luy mes a son lessor, & que ceo accord 29. lib. Aſſ. p. 2. John Eatbreds case, & le reason la rend est, pur ceo q; le patent ne demurre que celsy q; nad que parcell del estate: & in 28. H.8. Dyer 29.b. in Trespas le defendant dit, que le lieu ou fuet x. acres de terre, dont le Roy fuit leſie in fee in droit de son corone, & per les letters patens granta la terre a le Dame de Larche pur terme de vie, le quel lessa al defendant pur ans, & aueré ie vie del p̄m lessee, & iſſint iuſſie, & fuit moue si le plea soit bone sanz monſtranc des p̄mier letters patens, & tenus per Browne, Willowbye, & Baldwin, que il ne sera chace a monſtre eux auant, pur ceo que les letters patens ne appent a luy, nient plus q; Subcollector, Southuiscont, ou Incumbent, pur ceo q; ils nouent aucun meanes a faire lour grauntoz ou masters de monſtre eux: & per eux la est diuersitie quant le patentee grāta ouster tout son interest, la le patent appent a luy, & pur ceo il monſtre ceo auant, mes quant il grāt forſque parcell, auerment est: & que le case del incumbent accord 31. Ed. titulo Monſtrans des faits pl. 177. & 31. Hen. 6. 14. & le case de South-collector & Southuiscount 22. Henry 6. 42. & 31. Henry 6. 14. 12. Edw. 3. titulo Monſtrans des faits 65. South taxoz iuſſi. & le p̄isel des biens sans monſtre le commission, mes si home iuſſie l'imprisonement du corps de home per gare il couient monſtre le garrant.

C Mes fuit resolute, que le lessee pur ans in le case al batte doet monſtre les letters patens fait al lessee pur vie; car est vn maxime in la ley que cestuy que est partie ou p̄mire in estate ou interest, ou cestuy que iuſſie in le droit de cestuy que est partie ou p̄mire pleader vn fait, comment que cestuy que est p̄mire ne clame forſque parcell del original estate, vnozore il doit mēe le original fait al court; & le reason q; fait estant

¶ ij

illint

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issint plead sera monstre al court & que a chescun fait iij. choses sont requisite & necessarie, lvn que ceo soit suffisant in ley & ceo est apper le legal part, pur ceo que le iudgement de ceo appert aux Judges del ley, lauter concerne matter in fact, s. si ceo soit enseale & delivert come vn fait, & ceo appert al trial del paies : Et pur ceo chescu fait doit approuver luy m^r, a destre proue per auters; approuver luy mesme sur son m^ranz auant al court in iij. maners, 1. quant al composition des paroys dest^e suffisant in ley & ceo le court adiudgera, 2. q^u ceo ne soit rase ou interline in points ou lieuz material, & q^u c^o auxi in anciet tēps les Judges adiudge sur lour vieu, le fait d^ee bold come appert in 7.Ed.3.57. 25.Ed.3.41. 41.Ed.3.10.&c. mes de tardisse tēps les Judges ount iaise & destre trie p iuroz, s. si le rasing ou inclining soit devant le delivertie 3. Appert al court & al prie si c^o fuit s^e condition, limitac^e, ou oue power de reuocac^e &c. al intent q^u si soit condition, limitac^e, ou power de reuocatio in le fait, si le fait soit pole, ou si fault coûterpane del Indenture lauf p^tie poet pndre aduantage d^e condic^e, limitatio ou power d^e reuocac^e; oue c^o accord Litt c. Condic^c.90.&91.40. Ass.34. Et ceux sont les realans del ley que faits plead in court ser^e m^rez auant al court. Et pur ceo appert, q^u est daungerous a permitter aucun, que p^t le ley in pleadant doit m^rer le fait m^r in al court, sur le general issue a prouer in evidence a vn Jury per testmoignes, que la fuit tel fait que ils oont oye & ly, ou a prouer ceo per vn copie, car le viciousnes ou rasings ou interliniations ou auters imperfections in ceus cases ne appeares al court, ou peraduenture le fait poet ere sur condic^e, limitac^e, ou oue power de reuocac^e, & per cest boy verity & justice & le boier reason del common ley ser^e subvert. Mes vne in grand & notorius extremitieg, cōe p^t casuallie de fewe q^u tous les entences in s^e mealon fuer^e arles, la si ceo apperera al Judges, ilz poient in fauoz de cestuy q^u ad cy grand pde p^t le fewe, suffrir luy sur le general issue a prou le fait in evidence al Jurie p^t testmoignes ne calamitie ser^e add^e al calamitie, & si l^r Jury trone ecom^t q^u ne soit m^re in euidēce, est ser^e assets bōe, cōe appert in 28.Ass.p.3. mes in, 12.Ass.p.16. les Judges ne boill suffrir vn fait d^ee done in euidēce q^u ne fuit m^re auant aux iuroz. Vid 26.Ass.p.2. lēbl. Mes l^r copy du record poet ere m^re & d^ee in euidēce aux Jué, car recordz sot de cy haut nature & d^e tat credit in ley, q^u ilz ne poient estre proue per aut meanes q^u per eux m^r, & nul rasure ou interliniation sera intend in eux; & pur ceo vn copie dun record esteant testis de destre boier est permis

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mis desté done in evidence: mes le sure boy est, a exemplifier
ceo ou desouth le graund seale, ou al meines desouth le seale
de court; Et in le dit case del casaulty per le fewe doit este
graund circumspetion & discretion in les Judges, car nient
obstant aucun tiel casaulty de fewe il in pleadant doit mon-
stre le fait mesme al court ou autrement so plea serre insuffi-
cient & iudgement sera done vers luy, car le ley boille pot^r
permettre un mischiefe in un private case que inconueniece
que per infreinder del rule del ley sera introduce al pub-
lique. Auxy le fait ne doit solemyt come ad este dit, approuve
luy mesme, mes doit este proue per autres, cestassauore,
per testmoignes que ceo fuit enseale & delivier, car autrement
coment que le fabricke & composition del fait soit legal, un-
coze launs lauter ceo nest defect: & tout ceo que ad este dit
des faits quant al legal part poit este auxy affirme des let-
ters patents le Roy. Et le dit maxime auantdit est proue p
mults authorites in ley; & pur ceo in 3. H. 6. fol. 20. 21. 22. in
William Poles Affise le case fuit tiel, Sir John Clynton
chltre per son fait indent infeosse William Dauenture & ses
heires, rendant al dit sir John & ses heires lannuell rent ne
5. markes oue clause de distres, quel rent puis le moze de sir
John discend a sir William Elington chivaler coe a son co-
fin & heire, le quel sir William per son fait cy monstre auant
grant al dit William Pole oze plaintife (que fuit home del
ley) pro consilio impenso & impendendo p. xvi. s. viij. d. parcel
del dit rent a auer & perceiuer a luy pur son vie, & que si fuit
de ceo leisie & disleisie, & la Westbury & autres pernont dimer-
sity quant le prisme grauntee graunt ouster cy grand estate
come il auoit, & lou il grant meindre estate, car qnt il grāt
cy graund estate come il auoit per le ex p̄res grant lentire e-
state in le rent demurt in le person del 2. grante, in quel cas
le p̄m fait de droit attient al 2. grante, & p̄t in Affise port
p̄ luy de ce rent il doit mēe auant le p̄m fait, mes ou il grāt
meindre estat q̄ il ad, s. ou ces q̄ ad see simpl grāt p̄ vie, ou fait
d̄ge in taile, le 2. grante ne s̄t chale a mēe le p̄m fait fait a s̄
grāt p̄ ceo q̄ le see remain in l' lessor ou dosi a q̄ attiēt le fait
& a nul aut, & p̄t ne s̄t chale a mēe le p̄m fait; mes lopiniō
de tout le court fuit inconf le p̄t, & le realis & p̄ ceo q̄ il ē p̄muy
in lessate de rēt & claim p̄ le p̄m grāt, V. d. L. 3. c. Releas.
f. 106. Not. chelereleas fait a celuy q̄ ad un resū ou rem in fa-
it s̄tia & aider celuy q̄ ad le frāktenement auxibl com̄ cei a q̄

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release est fait si le tenant pur vie ad le releas in son poigne
a pleader, & le reason de ceo est pur ceo que la est priuity in
estate inter cesty in reversion ou remainder & le tenuant pur
vie, & vnoce le fait ne appent a luy mes a cesty in reversion
du remainder. Jamesme le mannoz dit Littleton lou vn re-
lease est fait al tenuant pur terme de vie, ou al tenuant in
taile, ceo inutera a ceux in le reversion ou remainder auxy
bien come al tenuant de franktenement & auerount auxy
graundaduantage de ieel; s'ilz ceo poient monstre, mes in
respect del priuity del estate ilz ne poient ceo monstre ilz ne
prendront aduantage de ceo: & oue ceo accord 35.Hen.6.tit.
Monstrans des faits 118. ou Prison chiefe Justice del common
banke tient, que in plusoz cases home ne pleadra release
ou fait que ne appent a luy, ne il puit auer action de recouer
sans ceo monstre; come si le disseisor fait lease pur vie que &
impeal in Prez & fait default apres default, & le disseisor
est receive, il ne pleadra release fait per le disseise al tenant
pur vie sans ceo monstre: Illint le seignour per Escheat
ne pleadra releas fait al disseisor per le disseise sans ceo
monstre: ne cesty in remainder ne sera receus sans mon-
strans del fait, & vnoce nappent a luy ne il ad r'medy a be-
ner a ceo. Et fuit dit que ceuz cases fueront plus fort que l'
case al barre: car quant le dit Conard fist lease al dit George
pur ang, le lessee puit lier le dit Conard per couenant ou au-
terment a monstre les letters patents al court quant miste-
r serf, mes illint ne poient le tenuant pur vie ou cesty in re-
version ou remainder, car la nul contract est fait inter cesty
que plead le fait & cesty a que le fait est fait. Est dit ouster in
35.H.6. que fuit agree, que gardien in chivalrie ne pleadra
release fait a son tenant sans ceo monstre, & ceo est adiudice
come la est dit; & tenant in dobor pleadra release fait a son
baron sans ceo monstre. Et in 14.H.8.4.est agree per tous
que cestuy que est priuity in estate come seoffee, lessee pur ang
sc. & cesty que justifie come seruant a cesty que est priuite, doit
monstre le fait al court queux ilz pleadoz & sc. Et in Det
verg l'heire il ne pleadra release fait aux executors sans ceo
monstre, car la est priuity inter eux, & oue ceo accord 13.E.
2.tit. Monstrans des faits 42. Et est auer maxime in la ley, que
ou home est estrangier al fait & ne clayme le chose com-
prise in le graunt ne riens hors de ceo, ne fait aucun chose in
dict le grauntee, come baylie ou seruaunt, la il pleadra le
patent

patent ou fait sauns ceo monstre : si le tenant pleade grant del seigniorie at tournement, il ne monstra ceo, & sic de humiliibus ; mes quant cest que clame les choses, ou aucun droit ou interest hors de ceo, ou iusticie in droit del grauntee, la il couient monstre le p̄mier graunt, come le 2. grauntee del rent charge monstre le p̄mier grant, & il n̄t sera son bâtie ; & le grauntee del rent charge ne pleadra le release del disseise al disseisoz sauns ceo monstre, car comment que il ne clame le terre de que le releas est fait, vncoze cest que ad rent hors del terre ad droit in la terre que per release de tout son droit sera extinct, & pur ceo il doit monstre le fait in tel case : & que ceo accord 20.H.7.6.& 8. & 14.H.8.5. le disseise ne pleadra release al disseisoz, neque del droit in la terre, neque del rent issuant hors del terre, sauns ceo monstre, car ou vn clame le chose a que releas est fait, ou droit ou interest hors de ceo, le ley fait p̄fuitie in respect del son estate ou droit in la terre, a tel entent que il nauera auayle del fait sauns ceo monstre. Queux cases sont plus fort que le cas al barre, car in le cas al barre il clame estate & interest in la terre mesme que est demise p̄ les letters patentes, & pur ceo il doit eux monstre. Et quant aux cases que oont este v̄ge al contracy, & p̄prierement al Awstins case, nest aucun authozitie in le liure que ceo fuit ou allowe ou disallowe per le Court : a le dit case de Eatbread in 29.libr. Assis. p.2. la le p̄zor alien fist lease pur vie, que il fist come p̄zor hors del inheritance del meason & nemy per force des Letters patentes, per que lorsque chatteil passa, & in le cas in 28.H.8. la Fitzh. Mountague, & Knightley teignont que les Letters Patents couient este monstre in tel case, & sic gens contra gentem.

Et quant al 2. point fuit obiect que ceo ne fuit forsene matter de forme, & le substance est le graunt le roigne Eliz. per ses Letters patent, que est confessé per le plaintiffe per son demurrer : & le liure in 6. E.4. fol. 2. fuit obiect, ou Choke tient, que si vn soit oblige sur condition a performe les couenants in certaine Indentures, & il plead performance sauns eux monstre al court, et le plaintiffe replie et monstre breach, il fait le barre bone, car il dit que de tiels choses h̄x ne sont materiall le replication ferme le barre bone ; per que fuit inferre que le monstrauns del Indenture fuit chose de forme & nient de matter. Et vn Judgement fuit cite Mich.

Doctor Leyfields case.

29. & 30. Elizab. in cest Court in le Maior & Communaltie de Launcestons case in Trespas in Cornwal les letters patents le Roigne Elizab. fuet pleade, cestassauoir, que le Roigne Elizab. per les Letters patents concessit, &c. launs dire ('cur. prolat') sur que lauter partie demurre generalment, & le plea adiudge bone. Mes fuit resolute que ceo fuit matter de substance, come appiert per les causes pur qu'z faitz serront monstre auant. Et quant al dit case de Maior et Communaltie de Launceston, boire est que tel Judgement fuit done sur argument des auters pointz : Mes in brieve Derror Mich. 30. & 31. sur lestatute ne 27. Elizab. error fuit assigne, que les Letters Patents ne fueront monstre auant, et fuit resolute que pur cest cause le plea fuit insufficient in substance ; & a cest cause fuit resolute per tous les Justices del common banke & barons del Eschequer que Judgement serra reuerg : & de tel opinion fuet in le case al barre tous les Justices del Common Banke & les Barons del Eschequer, & issint le Judgement done per les Judges del Banke le Roy in le case al barre fuit affirme. Obserue bien Lecteur, cest case adiudge per tous les Justices Dangleterre & Barons del Eschequer. Nota Lecteur, quant aux ditz trois cases mise in 35. Hen. 6. s. del garden, de tenuant in Dower, et tenuant per le Curtesie, ils sont bone ley : car quant aux ditz cases de garden & tenant in dower la est diversite ou un pticular estate ou interest est gaine per la ley, & ou per lart del partie : in le case al barre lenterest est gaine per lart del partie que poet prouider pur lui mesme ; mes quant la ley create lestate, & le fait nappent a lui ne unques fuit in son power, donques il ne monstra ceo, come in le dit case del garden in chivaltrie : et oue ceo accord 20. Ed. 3. Darrein presentement 13.33. E. 3. tit. Gard 162. et pur ceo le garden in chivaltrie in brieve de Dower port vers lui ne pleadra deteinement des Charters, pur ceo que ils nappent a lui eins al heire, come est tenus 10. E. 3. 49. &c. Melsme la ley de tenant in dower, come est tenus in 5. E. 3. titul. Hors de son fee 2. 3. H. 6. 21. 7. H. 6. 1. 7. H. 5. 5. Vide 11. H. 4. 83. 14. H. 8. Et issint de tenant p statut merchant, staple, Elegit ac. car sfg beigne al possession p execution del ley, et encont le volunt del terre tenant que ad le fait, car iudicium redditur in iniuitum ; & oue ceo accord 20. H. 7. 6. Mes le tenant per le curtesie doit monstre le releas fait a sa femme, car come q son estate soit create per

Doctor Leyfields case.

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per ley, vnoce le fait attient a luy, et il auoit ceo in son power, pur ceo que le fait fuit fait a son femme, et il poet detenir ceo durant son vie, Vide 14.H.8. Nota Lecteur, quant un plea a=mount al general issue, et le plaintife demurre sur ceo, si le de= defendant ne boille pleader le generall issue mesme in de=murcer, le court adiudgera vers luy al common ley sur gene=rall demurcer, et apres le dit act de 27. Elizab. sur tel speciaill cause monstre come fuit in le case al barre. Et per ceux rea=songz et diversitiez vous mienz entendrez vostre liures. Et les liurez, queut prima facie al ascuns semble a discorder, sont bien reconcile,

Mich.



Mich. 10. Iacobi Regis.

Edward Seymors case.

Hester William Heywood gen^e, plaintife
in Eiectione firma in banke le Roy, & Sa-
muell Smith defendant sur demise fait
per Edward Seymor Esq^r. Martij anno
4. Iac. dun mese in le Parish de S. Anne
infra præcinctum de Blackfryers in warda de
Farringdon infra London pur iij. ann^r 2c. &
que le defendant ad luy eiect 2c. le defendant plead rien culp,
& sur cest issue speciall verdict fuit done a cest effect: S. Tho-
mas Cheyny Chiualer fuit seisis del dit mesuage in fee, &
6. Decembris ann 1. Eliz. per son volunt in escript deuise le dit
mesuage al H:ny Cheyny son fits (puis seignior Cheyny)
& a les heires de son corps, le remainder al John Cheyny & a
les heires males de son corps, le remainder al procheine heires
males del dit Thomas Cheyny & a les heires males de lour
corps, le remainder al procheine heires del dit S. Thomas
a toutes iours; & puis le dit S. Thomas Cheyny morut sei-
sle, apres quel mort le dit Henry son fits enter in le dit mesu-
age & fuit ent seisis in taile oue les remainders ouster in taile,
le reversion in fee a luy & a les heires, & 18. Decembris anno 22
Eliz. per un Indenture intolle in le Chancery deins vi. moiz
pur un certaine summe dargent bargaine & vende le dit mese
al William Higham gen^e & a ses heires, per force de que il en
& fuit ent seisis accordant, & puis le dit Henry Cheyny, s.
Octob. Mich. anno 22. Eliz. leue un fine oue proclamations
du mese auantdit al dit William Higham & les heires oue
generall

Edward Seymors casé.

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nerall warrantie a luy & ses heires enconter tous gents;
William Higham 19. die Decembr. anno 23. Eliz. del dit mese
infeoffe Edward Stanhope au in fee, que 30. Ian. anno 26. Eliz.
infeoffe Henry seignior Seymour in fee, que vltim. Octob. ann.
26. El. del dit mese infeoffe Edward seignior Seymour in fee;
& que le dit John Cheyny in remainder auoit issue Thomas
Cheyny & moyst; & puis le dit Henry adonques seignior
Cheyny moyst anno 29. Eliz. sauns issue, & que le dit Thomas
Cheyny fuit colin & heire del dit Henry seignior Cheyny, & le
dit Thomas Cheyny 16. Nouemb. anno 31. El. enter in le dit
mese, enclaimant le dit mese per force del dit remainder in le
dit volunt: & que le dit Edward seignior Seymour moyst
ayant issue le dit Edward le lessor del plaintife son fils &
heire, que enter in le dit mese & fist le lease al plaintiffie come
in le count est alledge, & que le defendant come servant le dit
Thomas Cheyny & per son commaundement luy effect &c.
Et si super tota materia le dit def. legitimè intravit necne, jurato-
res predicti ignorant, & petunt inde aduisamentum Curie &c. Et
cest case fuit argue al barre & al bench in le Banke le Roy;
& in ces diuers points fueront resolute per totam Curiam. ¶ 1.
Que per le fait indent de bargaine & sale intolle, s' bargaine
ad estate discendible a ses heires, determinable sur le mort del
tenant in taile, & auxy il ad le reversion en fee expectant sur
lestate in remainder in taile, & que la seyne de tiel bargaine
serra endowe: Et oue ceo accord 24. E. 3. fol. 28. acc' in Calyes
case, mes tiel dover serra determinable per le mort del ten-
ant in taile. ¶ 2. Fuit resolute q' le fine leuie al bargaine ne fait
discontinuance del remainder del John Cheyny, pur ceo que
ceo ne touch ne displace son tem, & nul estate de franktene-
ment passa per la fine, mez le fine oue les proclamations co-
roberate lestate del bargaine & per les statutes 4. H. 7. ca. 24.
& 32. H. 8. cap. 36. fait son estate pluis perdurable, car ou ceo
fait (ayant regard a lestate taile) determinable sur le mort
del tenant in taile, oze nest determinable tanque tenant in
taile moyst sanz issue, mez si le fine vst este leuie deuant le bar-
gaine & vend intolle, ceo vst este discontinuance, come fuit
resolute in case in le part de mes Reports, s. mes
sn le case al barre le fine operate sur lestate precedent q' passa
per le bargaine & sale, & est guided per le precedent estate, et
nul conclusion, car poit confesse & auoide, come in 6. R. 2. tit.
Estoppel IIII. ¶ 3. Fuit obiect, que ou per le feoslement del
bargaine le remaind de John Cheyny fuit displace & mise
a bns

Edward Seymors case.

Item d'apostol, il dist que le gant in le fine descend sur John Cheynep que nad foysque droit, & pur ceo barres a lui, fuit une-
ment resolute per totam Curiam, que cest gant ne barre le ten-
ant pur d'uers cautes. 1. Pur ceo que chescun gant couient estre
hant & annex a un estate, car chescun gant ad son essence per
dependancie sur un estate, & in cest casse al temps del fine leuy
le gant fuit annex al fee simple determinable sur le mort del
tenant in telle sanguis issue, & al reversion in fee, mes ne extend
al estate del John Cheynep in le remainder, car ceo adonques
ne fuit displace ne deuest, mes continue in lui : car John
Cheynep al temps del fine leuy & apres fuit le sieur de son re-
mainder. Donques si le gant auant le temps del creation
de ceo soit annex a un estate, le conusee per son feossement
ou autre act ne poit extende ces plus ouster que il fuit al
temps del creation de ceo, & pur ceo quasunt lestate talle (a
quele garrantie est annex) est determine per le mort sanguis
issue del tenant in tayle, le garrantie, que ad son essence
per dependancie, est aux determine, car donques la est nul
estate que suppossera ceo : pur ceo fuit agree, que si homme
fait done in talle & garraunt la terre a lui & a ses hereres,
& puis Tenaunt in tayle fait feossement in fee & moys
sanguis issue, le feossee ne rebuttera le donour in Formedone
nul reverter, pur ceo que lestate a que le garrantie est annex
est determine: mes est tenus in 7. Edw. 3. 34. & 35. que si homme
fait done in talle & garraunt la terre a lui les hereres & alli-
gnes, & puis tenaunt in tayle fait feossement in fee & moys,
que il rebuttera le donor per force del dit garrantie in Form-
done in reverter : a cest liture estreite per Wilby in 46. Edwar.
3. fol. 4. b. quel liture est bone ley, si ceo soit intend dun done in
talle fait devant lestatute de donis conditionalibus, car don-
ques le garrantie fuit annex a un estate in fee simple, & le
donor nad foysque possibilite de reverter, que poit este bar-
re per collateral garrantie, Vide 45. Ass. pl. 6. & Plowdens Com-
mentaries in le seignior Barkleis case fol. 234. Mes quant homme
fait done in talle une gant pur lestatute, cest gant, in que-
conque maner que ceo soit fait, ne poit extende a barre le
reversion in fee, car le estate a que le garrantie extend est de-
termine per le mort del tenant in talle sanguis issue, & come ad
este dit, feossement ou autre act fait per le donee subseqwent
ne extenda le garrantie plus ouster que lestate a que le gar-
rantie al temps del creation de ceo fuit annex. 2. Est un may-
tine in ley, que nul garraunt extende a barre aucun estate de
frans-

Edvvard Seymors case.

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franktenement ou inheritance que est in Esse in possession, reuertion, ou remainder (et ne my displace et nuse a un droit) devant ou al temps del garrantie fait, comment que apres et al temps del discent del garrantie, l'estate de franktenement ou inheritance soit displace et denest : pur ceo quil est et fitz soie, et le fitz ad rent seruice, rent charge, ou rent lecke, ou common de pasture illuant hors de certaine terre, et le piet releale al tenant del terre oue garrantie a moyust, ceo ne barrera le fitz, car de le rent ou common le fitz fuit actuellement laisse al temps del garrantie fait, et cestuy que est in possession ne besoigne a mitter eins clame ou dauoider fine ou collateral garrantie, et en in le case comment que le fitz apres le garranty fait fuit disseisie del rent ou common, et pur le piet moyust, ceo ne barrera lui, pur ceo que le garrantie al temps del creation de ceo, ne extend al aucun estate de franktenement ou inheritance in Esse al temps del creation de ceo, mes si le fitz soit disseisie del rent ou common et affirme lui deste disseisie per le poyster dun assise, et puis le piet releale oue garrantie a moyust la le collateral garrantie barrera le fitz de son rent ou common, pur ceo que il nauoit forsque nude droit al temps del garranty fait, Vide 31. Ass.pl.38.22. Ass.36.41. Ass.pl.6.33.E.3 tit. Garrantie 73. Ilant si mon collateral auntestorz releas a mon tenant pur vie a moyust, ceo ne liera moy, pur ceo que le reuersion continue in ma parson: Mes si mon tenant pur vie soit disseisie, et mon auncestorz releale al disseisiez oue garrantie a moyust, ceo liera moy, pur ceo que cibien l'estate del tenant pur vie, come mon reuersion fuit deuest hors del moy al temps del garrantie fait, et oue ceo accord 43. Edward 3. 21. b. & 21 Henry 7. 11.

C 4. Fuit clerement resolute que un garrantie ne poet inflager un estate, 22.H.6.15.19.H.6.73.b.20.H.6.73.2.H.4.13 43.E.3.17. 43.Ass.pl.42. Vide 12. Ass.pl.17. 12.E.3. Taile 3. 22.Ed.4.16.b. 44.Ed.3.10. 44.Ass.Bassugborns assise.

C 5. Fuit resolute, que le seossement del conusee ne fuit discontinuance del remainder de John Cheyny, ilant que son entree sera tolle, car nul poet discontinuer le remainder ou reuersion mes cestuy solement a que le terre fuit intiale: et pur ceo quil tenant in taile grant totum statum suum al un, et il fait seossement in see, ceo ne tollera lentre de cestuy in le remaind ou reuersion.

B

C 6. Fuit

Edvvard Seymors case.

C 6. Fuit resolue, que si le collaterall garrantie liera que ceo bien puit estre done in evidence & troue per le Jury, comment que aucun oþintong qditer sont al contrarie in 22. Ass. pl. 37. & 7.H.5.6. Vide 34.Ed.3. titulo Droit. Car comment que collaterall garrantie ne done vn droit, bntore in ley ceo barre & lye vn droit, & puit ceo poer este done in evidence & eo potius, puit ceo que ore in Eiectione firmæ, & auters personel actions, ceo ne poer este plead per boy de barre, 15.Ed.4. titulo Entre 42 20.H.7.4.a. 1.H.7.12. 21.H.7.32. 3.Ed.4.4. 8.Ed.4.19. 21.Ed.4.82. 22.Ed.4.4. 3.H.6.27.36.b. 20.H.6.44. 35.H.6. Trespas 160. 27.H.8.22. Et que collateral garrantie poer estre done in evidence & troue per le Jury sur rien cuiþ plead in Eiectione firmæ, appert in le primer part de mes Reports in Chudleighes case. Et accordant a ceulx resolutions in Trinitatis 9. Iacobi Regis, Judgement fuit done par le defendant sur que le plaintife pozt brieke de Error sur le nœvel Statute in Leschequer chamber, ou fuit resolue in mesme cestuy terme per tous les Justices del common banke & Barons del Escheker, que le Judgement done per les Judges del banke le Roy sera affirme, & que le garrantie ne liera le remainder del John Cheyny pur les reasons & causes devant recite sauns aucun grand difficultie. Nota Leient chescun estate discendible al heire, ou est estate deulheritance, ou estate de franktenement, estate de inheritance est ou fee simple, ou fee taile; estate in fee simple ou est estate de inheritance absolute & indeterminable, come ou terres dont dones a vn & a ses heires il ad tiel pure & absolute estate que ne vñques poer determine; ou fee simple determinable, & ceo in deux maners, cestas cauoire, ou exprezsement deriue hors dun absolut & puit estate in fee simple, ou implicite & deriue hors du estate taile; hors dun absolute estate in fee aucty in deux maners. 1. p condition come sur mortgage, & ceo est appel fee simple condition, 2. per limitation, come si A. infesse B. del Manoz de D. a au & tener a luy & a ses heires cy long come C. ad heires de son corps, & ceo est appel fee simple limited & qualified, & en ambideur ceux cascs tout lestate in le terre est in le feoffee, & p ceo sur nul de eux vn remainder ou reversion poer este expectant. Implicite & deriue hors du estate taile, come in le case al barre, qñ tenant in taile bargain & vend le dit mese p fait endent & inrolle al William Higham & ses heires, & puis leuy

leuy fine a luy & a ses heires une proclamation, il ad estate de fee simple, cy long come le tenant in taile ad heires de son corps, deriué hors del estate in taile, & ceo est un plus inferior & subordonate estate in fee simple que lauterz deus auant-ditz, car sur ceo remainder ou reuersion poet este expectant, & vnoze in tous ceux cases cestuy que ad aucun tel estate de inheritance poet plead que il est laisse del terre in son desmesne come de fee, sauns monstre le commencement de son estate cibien quant il ad fee simple deriué hors dun estate taile come fee simple conditionel ou limited : Estate de franketenement discendible, in semblable maner ou est expres ou imply, expres, come si home demise terre a un & a ses heires durant la vie de J. S. ou tenant pur vie graunt sou estate a un & a ses heires, in ceuz cases le lessor ou grantee ad estate de franketenement discendible, mes nul estate de inheritance, car il serra puny pur wast, & cestuy in reuersion ou remainder entra pur forfeiture, & son heire nauera son age, car in maner il nest forisque special occupans, ne il serra in respect de ceo charge come heire in action de Det, implicite come ou in le case al barre tenant in taile bargaine & vend la terre al Willam Higham & ses heires, il ad estate discendible & detemnirable sur le mort de tenant in taile, & vnoze il ad melior estate que lauter ad, car il ne serra punie pur wast, ne sil fait fossement nul entra pur le forfeit, & la feme serra indow determinable sur le mort de tenant in taile : et vnoze gards vous pleaders bien, que in tel case vous ne commences bostre plea que le bargainee in tel case fuit scilicet in dominico suo ut de feodo, mes le sure boy est a pleadera lespecial matter, & dauerter le vie del tenant in taile.

Et issint vous mieux entendes vostres liures, cestascauoir, Littleton folio 3.b. capitulo Taile & capitulo Garrantie
 7. Edward. 4. 12. 9. Edward. 4. 26. a. 15. Edward. 4. 8. 2. Hen.
 4. 13. 21. Hen. 7. 4. 18. Edward. 3. 12. 13. Hen. 7. 10. 18. Hen.
 8. 3. b. 11. Hen. 4. 42. 7. Hen. 4. 46. 8. Hen. 4. 15. 17. Edward.
 3. 48. 19. Edward. 3. Account 56. 33. Ass. Pla. 17. 27. Ass. 31.
 22. Hen. 6. 33. 39. Edward. 3. 25. 22. Edward. 3. 19. 27. H. 8. 29.

Edvvard Seymors case.

21. Hen. 8. titulo Estates 28. 50. 8. Elizab. Dyer 253. 24. Edward.
3. 28. b. 9. Edward. 4. 19. Plowdens Commentaries in Walsing-
hams case 555.

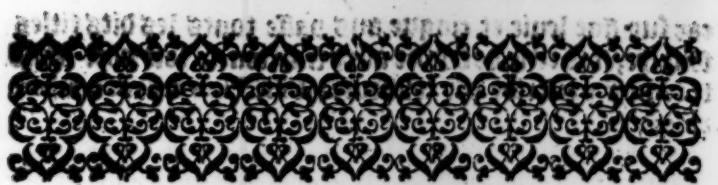
Et semble a moy que in le case al barre le remainder de John Cheyny per le feofement del conusee al Edward Stanhope & ses heires ne fuit displace ne mise a vn droit ; car le conusee ad fee simple determinable sur le mort de Henry Deignoz Cheyny sauns issue de son corps , & quant il fait feofement son determinable fee simple in possession & son absolute fee simple expectant sur l'estate taile de John Cheyny in remainder passera , & ne deuera le remainder de John Cheyny , car le feofement que in lui mesme nest tortious ne poet este tortious al autre ; mes ou tenant pur vie ou tenant in taile font feofement , le feofement in lui mesme est tortious , car tenant pur vie ou in taile ne poiet doner fee en pur ceo le feofement mesme est tortious , & in case destate taile est tortious quant a ses issues : Mes quant cestuy que ad fee simple , comment soit determinable , fait feofement in fee , il que ad fee simple done fee simple , & per ceo il ne fait tort a ses heires , & per consequence nul tort a cestuy in le remainder : Auxx l'estate taile per dit fine est ousterment barre & nuel estate in fee simple create .

Nota , auxx Lecteur sont alcun titles a q garrantie ne ex-
tend , come le title in case discharge , condition sur mortgage
sc. mortmaine , consent al rauishoz & semblable , car pur ceur
nul action gist in que poet este doucher ou rebutter , ne
discent tollera lentre in tiels cases , & ils continue in ti-
el pleight & possession come ils fueront per lour original
creation , & ils per nul act poient este displace ou deuest hoys
de lour original essence . Vide 34. Edward. 3. titulo Garran-
tie 72. collateral garrantie ne barrera title de dowter , car
ceo continue le essence solonque le original creation , &
vncoze pur ceo action est done ; & pur ceo est diversitie
inter collateral garrantie & fine leuie & cinque ans passe ,
car

car sur fine leue et cinqe ans passe toutes les dits titres
soient lye, et le ttle de boute auys au temps que luy soit venu
le temps plemente per la Justice, Vide Floures Comme
taries 373.

MS. A.9.1 folio 101v

Riija Mich.



Mich. 10. Iacobi Regis.

do M

Beawfages case.

La mesme cestuy terme fuit moue al barre
in le case dun Beawfage, si le viscount que
ad Fieri facias poet prender obligation del
defendat a paier lez denierz in court al re-
torne del brieve, & le doubt que fuit con-
ceue sur ceo fuit sur les generall paroys
del act de 23. H. 6. 10. Et li alcun des ditz
viscounts ou auters officers, ou ministeris suisditz preign as-
cun obligation in autre forme per colour de lour offices que
il soit boide, & tiel obligation a paier les deniers in court ac.
est in autre forme que lestatute prescrive : ¶ Mes sur con-
sideration de tous les parts del dit act fuit resolute, que tiel
obligation ne fuit fait boide per le dit act, & pur ceo cohären-
tia prouisionum actus predicti est obseruanda. Primerment
(quant a cest matter) est enact qde les viscounts ac. lesserot
hoys del prison, tous persons, per eux arrest, on in lour gard
per force dascum breue, bill, ou garrant, in alcun action per-
sonall, ou pur cause dendictment de trespass, sur reasonable
suertie des sufficients persons ayant sufficient deins le
counties ou tiels persons sont issint lessie al baile, a garder
lour iours ac. (except persons in execution prisne per cap. vta-
gar, Excom' cap. suertie de peace, per commandement dascum
Justice & vagrants.) Le ij. clause est que nul viscount s ac.
preigne ou face de prender ou faire alcun obligation pur as-
cum suisditz, ou colour de lour office, si non tantolement a
eux mesme, dascum person, ne per alcun person que soit in
lour gard p course de la ley, forsch s le nosme de lour office, s
con-

Beawfages case.

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condition escrie que les dits prisoners appergeront a le iour
contine in les dits brieves, bills, ou garrantes & in tels lieus
ou le dits brieves, bills, ou garrantes, requise. (Don-
ques vient le dit clause.) Et si aucun dez viscounts &c. preigne
ascun obligation in autre forme per colour de lour offices,
que ceo sera void. Il s'int que le premier brach conteine clause
de precept a commandement aux viscounts que ils leveront
prisoners al baile que fera arrest in personal actions &c. le
quel viscount ne pourra faire devant cest act, come appert per
22.H.6.46. 19.H.6.43. 21.E.4.77. Fitzh.Nat.Bre.25.a. & b.
Le 2. brach conteine le forme del obligation per que il sera
lesse al baile : Le 3. le penaltie si le viscount ne obserue le forme p-
scrive per lestatute ; il s'int que sur le coherence, & dependancie
des branchz les darrein parols come que ilz sont general
extenda solement al branch precedent, & des obligations
prise de ceux que sont in lour gard. Et accordant a cest resolu-
tion ad este adiudge in cest court Trinit. 34. Eliz. 1656. in
Der per Dawson viscount de B. vers Burman sur obligatio-
n, le defendant plead lestatute de 23.H.6. a monstre que un
recouer det a d'ommages bers luy, & pursue un brieve de Fieri
facias envers luy direct al viscount de B. & que il fait l'obliga-
tion al plaintife pur l'exection, & que le obligation fuit void
per le dit act, sur que le plaintife demurre : & fuit resolute, pri-
merment, que le dit obligation ne fuit deins le dit statute, p-
ceo que lestatute extend solement a tels obligations q' ascu
que est in son gard fait a luy; 2. que le obligation ne fuit void
per le common ley; sur que le plaintife auoit Judgement.
Et autel Judgement fuit done in cest court auxi Mich. 28. &
29. Eliz. Rott' 1502. inter Burwey & Ker, sur obligation prise
per viscount pro solutione pecuniae debite dominae Reginæ sur
extreat hozz del Eschequer. Nota, Lecteur, ou est dit in l' dar-
rein clause del act, q' si aucuns viscounts ou autres officers ou
ministers suisdicts preigne asc' obligation in autre forme per
colour de lour offices, q' il soit void, est ascauoir que la sont
tj. maners des formes, s. forma verbalis, & forma legalis; forma
verbalis estoit sur lez letters & sillables del act, forma legalis est
forma essentialis, & estoit sur le substance del chose deesse fait &
sur le sens del statute, quia Notitia ramorum huius statuti non
in sermonum folijs, sed in rationis radice posita est : Et accord a
cest distinction ad cest branch de cest act este expound; & pur
ceo in 37.H.6.1, si le viscount prist simple obligation dun in
son gard q' fuit baliiable, ceo est void, car ceo obligation fault
essential

Beawfages case.

essential forme prescrive p lestatute , car le condic prescrive la foye, q est part del substance : Ilint la Moile dit, si le viscount d le tenir un amercement q est except in le statut & que n'est mainpernable, & llt pris le simple obligation , que sera bold , quod alij Justiciarj conciliorunt : car per l exception appert que ne fuit intention del statut que ils seraient a bailler, & ilint le o ditz en pris le autre foyn que lessacute entend . Et semble a moy que cibien en mesme le cas de 37.H.6. come in le principal case de Dine & Manningham Plow.Cot. 67 le oblig q ad condic de sauver le visc. &c. baronies (quant le viscount encounter le ley lessacute un q ne baillable a bailler) est encounter ley & bold p le common ley : & oue e accord William Wischams case 1y. Eliz. Regine Dyer 324. Et in 7. E. 4. un fait dans le custodie del viscount per force dun Capias direct a hay sur un indictment de trespass, & le partie fist obligation al autre (q le denomination del viscount) sur tel condition come lessat prescrive p le fuerit del visc, & la est tenu q l obligation est bold, p e q lait prescrive q l oblig sera fait al visc mesme, & ceo est part del essential forme : Ilint si le visc ad ad condic q il sera gard sans damage & le Roy & le pl &c. que ceo sera tout le condic bold p le cauus avantdict : Ilint si le visc ou gaoler pris obligation del prisoner oue condition devoir prisoner, ou a paier par son manger & boyer : Ilint si le viscount adde autre chose al malice prescrive p lessature, come a paier tant des denrees par un chivalx. Cest addition fait tout le obligation bold , car est pris in autre forme (touchant le substance del matter) que est prescrive p lessature, Et oue tout ceo accord Plow.Com. in le dit case case inter Dine & Manningham fol. 67. 68. 69. Mes in Pasch. 27. Elizab. in bank le Roy in action de Det poys p Sir William Drury jades bâti del countie de Suff. sur un oblig de xx.l. & xii.s. q demand opere del oblig. p q appiert q le def. fait solein lie in i, & del condition, que fuit que un Moore, quel le dit visc ad arrest per force dun Laritat hors de bâche le Roy , apperut fit pson al tour cotein in le bte &c. & plead lessat de 23.H.6. & q le dit oblig fuit pris in aut forme q le dit act prescrive &c. sur q le pl demarre in ley : a fait obiect q la fueront 3. baronies del royaume prescrive p lessature, g. bo in le oblig, & 2. in le condition ; in le oblig, pur ceo q le pl pris forcez un fuerit, & lessat prescrive reasonable sur le de suffisant plong (in le plural number) ayant suffisant deins les cosities ou tiels plong soient issit lessat al bailler, in q il case doit et 2. sur leies al meimes, et

Si cy nest forsque vn suertie, & le plural number ne poe este
 satisfie oue le singlar, & issint encounter les paroys del act,
 car le plusors et le pluys able q̄ les suerties sont, ilz voulent
 plus tost causer cestuy q̄ est lessé a baile appearer, & p ceo
 Justice pcedera oue plusis expedition, & issint encount lente-
 tion del statute; Et une tout ceo accord lopinion de Mount-
 ague chaste Justice del common banke in le dit case de Diue
 & Manningham: Auxy in le condition, p̄mierment, les poys
 sont, que le prisoner appiere in person, ou les paroys del sta-
 tute sont appiere generalment (sans ceux paroys in person)
 2. que il appiere al tour q̄ ad respondendum, ou ceux paroys
 (ad respondendum) sont pluys que lessatute prescribe, & issint
 auxy p̄ 2. causes le condic varie del forme p̄scrive p̄ lessatute,
 & p consequence obligation void, come in les dits cases de
 37.H.6.7.7. et Diue & Manninghams case. Mes les fuit resolute
 p̄ Sir Christopher Wray, Sir Thomas Gawdy, & tout le court
 del banke le Roy, q̄ le dit obligation ne fuit fait void p̄ le dit
 act: Car quant a lor, les paroys sur reasonable suretie de
 sufficent psongs, sont addes p̄ le suretie del viscount & p̄ si el
 voet p̄ndre forzq̄ vn suertie soit il a son peril, car il sera a-
 mercie si le def. nappiert, & p̄ c̄ lessatute ne fait void le oblig
 in tiel case; car le dit branch q̄ p̄ler be le forme, require q̄ l ob-
 ligation sera fait al viscount in ic. p̄ nosme de lour office, &
 q̄ les prisoners appiere in q̄ clause nul mention e fait de les
 suerties, issint q̄ l entent del act fuit, q̄ tant q̄ e fuit al peril del
 viscount, a laiser e a son discretion a p̄nd vn ou plusors p̄ son
 indemnité, & peraduenture il serf mieux p̄ luy aseun foits a
 p̄nd vn q̄ est suffic q̄ 2. auers; & coist q̄ les suerties ou sureties
 nount suffic deins in le county cōe lessat mention, vnoze le
 oblig fuit assets bone, car ceux les paroys del act, quāt a cest
 point, sont pluys p̄ counsel ou direction di viscont pur p̄cept ou
 constraint a luy, & c̄ p̄ le saftie del viscont car si le def. ne poe tro-
 uer 2. suffic suerties ayant sufficent deins mesme le county
 le viscount nest tenus de luy laiser al baile: & cest resolution
 accord que launcient rule, castalcauoir, Quilibet potest re-
 nunciare iuri, p̄ se introduct: Quāt aux dits 2. addition al cō-
 dition del dit oblig pluys q̄ e in lessat, fuit resolute, q̄ voter e q̄
 la e obal difference di forme p̄scrive p̄ lessat, mez nul in sub-
 stâce & effect, car cev q̄ issint e lessé al baile doit appeare in p-
 son, car tant e emploie deins cest pol del act (appiergeront) et
 p̄c al comō ley quāt aseun tenu ou def. fuit comād dapparere in
 ali court, il duissoit deuāt lessat ent fait, in toutes cases dauer
 appeare

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appare in proper person; & sue ceo accord^d, Fitz.Nat.Bre.25.
 & les liuers auant cite, issint à pur mesme le cause nest lauter
 addition material, car cestuy que doit appearer, doit appea-
 rer ad respondendum, & Parum differunt quæ re concord^e. Et est
 ipsorum Legislatorum tanquam viua vox, rebus & non verbis le-
 gem imponimus. Vide 21. Eliz. Dyer 364. la le condition fuit in
 le conjunctive, appare and answere in le copulatiue, & vnoze
 le obligation bone, Trin' 27. Eli. in bank le Roy, inter Danby
 & Hertcote in brieve de Error sur Judgement done in le mar-
 shalsea, fuit resolute, q̄ si un viscount ou gaoler p̄ eale & enlар-
 gement dascun q̄ est in son gard pris promise de iuy fau harm-
 less, q̄ comment que lestatute ne ple forisque soleint de obligati-
 on oue conditiō vnoze c̄ est in obel mischiefe: & Wray chiefe
 Justice dit, que lestatute seruera pur petit ou riens à pmisez
 ne sera p̄rise deins lestatute; & le dit d'aréine clause est ge-
 neral, s. & si le viscount pris ascun obligation in autre form^e
 que ceo sera void, deins le equite de ceux parols (ascun ob-
 ligation) un assument est p̄rise, car ceo ē dit in l's ancient leg
 Verba ligant homines, taurarum cornua fures, Cornu bos capitur
 voce ligatur homo. Quando verba statuti sunt specialia, ratio au-
 tem generalis, generaliter statutum est intelligendum: & appiert
 per le preambie que lestatute fuit fait pur a uoiding de per-
 iury, extortio, & oppression, trois haut horrible & odious
 crimes, & pur ceo pur suppreſſing de eux, & pur aduancemēt
 de veritie & Justice, le parols del act auront benigne & fa-
 uorable interpretation; in hijs enim quæ sunt favorabilia ani-
 mæ, quamvis sunt damnoſa rebus, fiat aliquando extentio statuti.
 Et le extortio & oppression que sont faits aux prisoners est
 le plus odious, pur ceo que est feuire in dolentes, et addere affil-
 actionem afflictis: Et boier est que devant cest statute, les vis-
 counts, gaolers, &c. ascun foits pur eale ou enlāgement, &
 ascun foits per oppression & dures boille extort de lour pri-
 soners per coloure de lour office diners summes de argent, &
 auters auailles, & issint per tiel pilling & polling ils fueront
 enrich & les prisoners impoueris, & le proceeding de Justices
 delay. Et est bien dit in Diue & Manninghams case fol.68. que
 extortio nest autre que robbery, mes est pluis odible q̄ rob-
 berie, car robbery ē apparat & ad tous dits apparace d'vice
 mes extortio port un visage de veritie, & est pluis difficile
 deē trier ou discerne, & auxy ē pluis tost accōpany oue le dam-
 nable & dānc d'vice d'piury in l'infreind l' serenit q̄ lossit pris
 quant il fuit admit a son office, & pur ceo est le pluis odious,
 Extortio

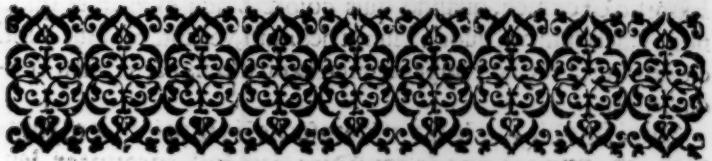
Beawfages case.

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Extortio est crimen, quando quis colore officij extorqueret quod non est debitum, vel quod est supra debitum, vel ante tempus quod est debitum, & **ceo est appell** crimen expilationis, & crimen concussionis.

Auxi fuit dit que le dit assumpsit ne lla le prisoner al common ley, pur ceo que le consideration fuit encounterer ley. Vide 19.Elez. Dyer Onleys case.

Mich.



Mich. 10. Iacobi Regis.

Alfridus Denbawds case.

Alfridus Denbawd alias Burnard port
Briefe de Error in Leschequer chambe d'
Peter Woodley Hill' g.la. Regis Rot 1151
n banke le Roy, & le case fuit que Peter
Woodley port Trespas vers le dit Alfride
& vn Tho. D. quare clusum fregit al Fish-
barton in le County de Deuon: Le de-
fendant plead Non culpable & al assises in paix Alfride fuit
troue culpabl & le p^s auoit Judgement vers le dit Alfrid & sur
quel Alfride port Briefe de Error & le error que fuit a^{ve}gne,
fuit pur ceo que vn des Juroz del principal pannel al piet
solement al assises sur que al piet del plaintife vn pannel dez
tales de Circumstantibus fuit returne p^r le viscount in c^e forme:
le title fuit, nomina decem talium &c. & souch ceo il retozne vi.
Juroz. Et fuit argue que cest Judgezit fuit erronious p^r 2
cases; 1. p^r ceo q^t lors lun del principal pannel solement appiert
& 2. al meins couent dapparere; 2. q^t intant q^t il intitle le pan-
nel del tales, nomina decem talium, il ne poet retozne vi. Quant
al primer, ie agard del dit tales doit c^e garrant p^r l estatute de
35.H.8.cap.6. car al common ley les Justices de Nisi prius ne
poient grant aucun tales, & fuit obiect q^t lagarder del tales in le
case al barre ne f^r.it q^t q^r p^r dit act, car les parols d^r ceo sont,
And that the Justices shall and may proceed to the tryall of euery
such issue with those persons that were before impanneled and re-
turned and with thole newly added &c. Maint que ceurz parolz
those persons esteant in le plural number ne poient e^c satisfie
oue

one vn singular person, come sur lestatute de W. 2.c.11. cum
dnus &c. dederit eis auditores compoti &c. si vn account devant
vn Audit in Der. si les arreterages sur tel account il gagez so
ley, cõe est tenus in 20.H.6.41.b.3 le treason la rendue est, si ceo
que lastat parle daccord deuant Auditors, Vid' 5.H.4.c.8.1 H.4
56.8.H.6.15.20.H.6.17.14.H.6.24.20.H.6.45.22.H.6.35. Vid.
49.E.3.2.&43.E.3.31. Nota Lecteur, ne asce act de parliaunt q
p expres p ois tolle le gaõg del ley in acé de Der sur arreterages
daccount, mes al comon ley le def. asua son le in acé de Der
port si arreterages daccord, soit laccount deuant vn Audit ou
plusors, come appiert in 38.H.6.5.6. mes le treason q le def. ne
gagez s ley qnt laccount est fait deuant Auditors, est s lestatut
W.2.c.11. car ore test statute ad fait les Audit Judges de
record, si ceo q ils ont power per l a comitie le def. au prison, le
qil nul poet faire unon q ils sont Judges de record, que ce
reason, s q ils sont Judges de record accord 2.H.6.41.& 10.
H.6.24.2.5.3 a ce cause il soit ouste del ley p toutes les Justis
in tels tase: mes si account soit deuant lun Audit seulement, et est
hozg del statute, car il ne poet committ le def. au prison, et pur
ceo remaine al comon ley. Il s'int le seignior que est troue in
surplusage, lestatute est fait vers laccountant seulement, et le
seignior ne poet este committ au prison, et pur ceo il auxy
remaine al comon ley, come est adiudice in 14 Hen. 6.24.
Vide 10.Hen.6.25.38.Hen.6.6.20.Hen.6.41. b. et appiert per
le Judgement del entier parliament in 5.Hen.4.cap.8. que in
action de Der sur arreterages daccount devant Auditors,
que le defendant ne gage son ley, mes la remedie est done per
examinaõ a discerner si le matter gist in accompt, et si nemp
donq's dallower le def. son ley, et pur le les liures in 43.E.3. et
49.E.3. sont malement report. Et ouster ceux de conseil que
le pl. in bte Derror citont le case in 22.H.6.47. ou le custome 6.
foizine attachant esteant alledge vers ylong in le plural nsi
ber ne serf satissie oue vn; et le case de redasseisin, ou lestatute
de Mertõ c.3. dit, assuptis tecum custodibus Placitorum coronæ dom.
Reg. test plural number ne serf satissie oue vn si sont plusors
q vn; et que e accord 27.Aff.p.3.50.E.3.17.39.H.6.42. Il s'int in
grats faitz p corporaç le plural nsiber ne serf satissie oue vn,
cõe appiert in l case d les Cookes d Lond Pl. Co. fo. Il s'int in
btes, si l bte soit q le def. falso fabricauit diuersa falsa faitz, il ne
poet declare del vn seulement, 35.H.6.37.b. Vide 7.E.4.31.a.20.
H.6.45.&c.

CMes fuit resolute, que in case quant forz vn del princ
pall

Alfridus Denbawds case.

gall pannell appiert, lestatute done authoritie aux Justicē de Nisi prius dagard tales de circumstantibus ; car est puruen per le dit statute, For the more speedy triall of issues to bee tried by 12. men hereafter to be had, that in every writ of *Habeas corpora* or *Distringas* with a *Nisi prius*, where a full Jury shall not appeare before the Justices of Assise or *Nisi prius*, or else after an appearance of a full Jury by challenge of either of the parties the Jury is like to remaine vntaken for default of Jurors, that then the same Justices, vpon request made by the partie pl. or demandant, shall haue authoritie by force of this act to comand the sherife, or other minister or ministers to whom the making of the said returne shal appertaine, to name & appoint as often as need shal require so many of such able persons of the said countē the present &c. as shal make vp a full Jury. Per qur parols, sans question, comit q vn soleil appiert le court poët agard tales de 11. Donques vient le clause q ad este mené devant, q ne restraine pas le generality des p̄m̄ parols. Et les tales misse devant q done authoritie in nature dun comission, cōe in le cas des auditoz del account, Redisseisin ic, ne sot dē reséble a ce cas sur le dit act de 35. H.8. que est fait p̄ plusis speedy trials, q tous foits, et tous autres statutes de auiel nature, serf p̄rise benigne et fauorablement in furtherance et aduancement de expedition in Justice, & est cy grand mischiefe & delay de Justice quant lus solement come quant 2. ou plusors appieront, & a cest cause q le corps del act est este in le plural number, bnoce ceo serf construe a extender al case quant vn solement del principal pannel appiert : et oue ceo accord lopinion del courc del common banke in Mich. 7. & 8. Eliz. Dier 245. in mesme le point, cestassauoire, que les Justices de Assise & Nisi prius sunt power dagarder tales quant vn Juroz solement appiert, car la est dit, issint fuit lentent des fesoz del statut, et la Browne tient, si 2. del principall pannel appeare, & al prier del ps 12. de circumstantē sont retourne, & doncq leg 2. principals soint treit horz p̄ le challenge, oze le trial serf tout p̄ leg 12. de circumstantē : sed le s̄nior Dier fait vn Quere de c̄ mes al common ley les Juroz des tales passerount in triall sans aucun Juroz del principall pannell, et cest act ad tous foits este expound fauorablement : et pur ceo in Mich. 16. & 17. Elizab. nul hundredor appiert, et tous les hundredors fuerount retourne sur le tales : et 23. Elizabeth. Dyer 376. ils ouint power a graunt tales de circumstantibus direct Coronatoribus, pur fauour ou affection del b̄te per

per les ditz generall parols del dit act 35. Hen. 8. Mich. 35. et
 36. Eliz. Iulius Cæsar maistre del court de Requests in le bâke
 le roy porz actio pur scandalous parols vers Philip Corlioni,
 le defend pleadrie culp, & dit que il fuit alienigena &c. & pris
 trial per medietatem lingue, et fuit graunt, & al Nisi prius in
 Londres forisque 6. Angloys et 5. alienis appieſ, & le plaintife
 pris tales de circumstantibus per medietatem lingue, et fuit grāt,
 issint que fauit un alien, & le record fuit, ideo aliis alienigena
 de circumstantibus per vicecom London ad requisitionem infra-
 nominati lulij Cæsar is per mandatum Iustic' de nouo apposit', cu-
 ius nomen panello prædict' affilatur secundum formam statuti in
 huiusmodi casu nuper editi & prouisi, Qui quidem Iurator sic de
 nouo appositus, videlicet, Christianus Dethicke alienigena ex-
 actus similiter venit, ac in Juratam illam simul cum alijs iuratoribus
 predictis prius impanellatis & iuratis iuratus fuit, & le Jurie trou-
 ue pur le pl. & assesse damages al C. l. Et fuit moue in arrest
 de iudgement, que nul tales est destre graunt de circumstantibus
 quant le triall est per medietatem lingue per les Justices de
 Nisi prius per le dit act de 35. H. 8. pur 3. reasons; 1. le tales
 couient ensuer le nature del principal pannell, et ceo toutz
 soits est ad requisitionem desertis, & in cest case le plaintife pris
 le tales; 2. que les parols del dit act sont in le plurall num-
 ber the Iury is like to remaine vntaken for default of Iurors, & icy
 ne fuit forisque pur default del un Juroz; 3. iact ne done au-
 thoritie in cest case al Iustic a graunk tales, car in le former
 part del act est parle de franktenement des Jurozs, & des is-
 sues destre retourne sur les Jurozs, et alien n'avoit frankte-
 nement, ne issues serf retourne sur lui: Auyz lestatute dit
 si soit aucun default des Jurozs, auters de in le countie serf
 retourne &c. & un alien nest properit dit dascum countie: et
 hijs non obstantibus, pur ceo que lestatute fuit fait pur speedy
 execution de Justice, & serf expound fauourablement de effect
 lentenc & ppose des fesoiz del act, Judgeant fuit dōe p le pl.

Quant al 2. obiection que ad este fait, fuit resolue que
 le title fuit le misprision del viscount, et ne poet estre pris
 que le Iustic graunt tales solement de 10. mes de tenuis que
 in tout sera inquest: et ceo appiert, pur ceo que 11. fueront
 retourne & 11. tene oue cesty del principall pannell, & pur
 ceo fuit resolue que cest misprision del viscount sera amen-
 de et decem mise hors del title, et donques le title sera bo-
 ne et formall, nomina talium &c. ou poet este noia iuratorum
 de nouo apposit' secundum formam statuti.

Alfridus Denbawds case.

Nota Lecteur, al common ley in le graunting dun tales 5. choses sont destre consider, 1. le temps del graunting &c. de ceo, 2. le number des tales, 3. le ordre de eux, 4. le manner de triall, cestassauoire, ou per eux oue auters, ou per eux seulement, 5. le qualite de eux sont destre consider.

1. Quant al primer, 4. choses sont destre consider, primerement que le temps del grant de eux est sur default de tantz de ceux del principall pannel que ne poet este pleine enquest; 2. que al temps de graunter de eux le principal array estoit, car tales sont parols similitudinary, & ont reference al ressemblance que a cest temps doit este in esse, & pur ceo si array soit quashe, ou toutz les polles challenge & trie hors, nul tales seret agard, car a cest temps ne sont quales, mes in tel case nouvel venire fac' seret agard, mes si al temps del granting des tales le principal pannel estoit, & puis est quashe come est avancedit, vnoze le tales estoies, car suffist si fuerent quales al temps de graunting de eux, & ceo appiert in 34.H.6.tit. Enquest 30.3 est destre obserue que cesty que est merement defendant ne poit prier tales tanque le temps que le plaintife ad fait default; 4. in aucun case tales seraient graunt apres vn pleine Jurie appiert & soit iure, come si vn Jurie soit charge, & apres et devant verdit done in court, lun de eux moyust, tales seraient agard, et nul nouvel venire fac', et oue ceo accord 12.Henr.4.10. Illint si aucun des Jurors impannell moriet devant que ilz appierent, et ceo appiert per le retourne del viscount, le pannel nabatera, mes si besoigne soit tales seret agard, Vide 20.Edw. 4.11. Et le temps del challenge et trial del tales, est apres ceo que le principal pannel soit trie, et si le principal pannel soit affirm mesme les triers trierent les tales, mes si soit quashe, donques les 2. triers del principall ne trierent eux, 9.E.4.46.14. H.7.1.& 33.H.6.25. Vide 19.H.6.48.

2. Quant al 2. cestassauoire, le number, 2. choses sont destre obserue; 1. q' in touz casz le tales couient este desouth le nomb're del principal in le venire fac' (sinon que il soit in case d'appal) come in Attaint desouth, 2. 4. et in auters actions ou le ven' fac' e de 12. desouth 12. & le reason p' quoy plusoz poient et grant in appeal del pt le pl est, p' ceo q' le def. poet challenge pemptoziment, & si default soit in le pl donq's le defendant poet prier tales, & le reason est in fauorem vitz, et que il poet expedite lui a free lui mesme de vexation & question de son vie, pur paour que les testimonies deuient &c. & oue e accord 14.H.7.7.37.H.6.12.18.E.4.5.b.16.E.4.6.b. et pur ceo semble le

le liure in 48. Edward 3. i. est misprint. Vide 49. Edward 3. i.
& 48. Edward 3. 28. Le 2. que le number touz foits contient
este certaine, come 10. ou 8. ou 6. ou 4. &c. Vide octo tales
Br' 11. Mes oze sur le dit act de 35. Hen. 8. tales de circum-
stantibus poet este graunt cibien dun incertaine come duos ter-
tain number, & ceo per force des parols del dit act, s. so many
&c. as shal make vp a full lury.

Quant al 3. cestassauoir, le ordre, est ascauoir que touz
foits in chescun nouvel tales le number sera diminish, come
si le primer soit 10. le 2. sera 8. & issint touz foits meins, & ou-
ue ceo accord 14. Hen. 7. fol. 1. Tit. 8. tales Br' 15. Vide 47. Aff. p.
10. Mes si tales soit agard & puis est quashe per challenge, il
pert auer nouvel de in le number come deuant, & oue ceo ac-
cord 20. H. 6. 40.

Quant al 4. cestassauoir, al manner de trial, cestassauoir,
per eux oue auters, est common chescun iour; & per eux sole-
ment, quant puis le granting de 10. tales et octo tales le prin-
cipal pannel est quashe, la le trial poet este solement de tales,
ou si le tales ne amount a vn enquest, vn tales a supplier le
formier tales poet este graunt, & oue ceo accord 36. Hen. 6. Tit.
Enq. 30.

Quant al 5. cestassauoir, al qualitie des tales, ils doient
este demesme le qualitie come, les principals sont, et pur
ceo si le primer soit per medietatem lingue des Anglois & ali-
eng, issint doient este le tales, issint si le principall soit
horz dun franchise, & toutz ceux choses que sont require per
le ley in les principals sont require in les tales. Vide 13. Ed. 4.
11. 7. H. 6. 40. 30. Aff. 42. Et puis per aduise de tous les Ju-
stices del common banke & des Barons del Eschequer le
Judgement fuit affirme: et issint le principal case al barre
ad este adiudge p toutes les Justices d'engleterre & toutes les
Barons del Eschequer.

Nota Lecteur in Affise, si tant de les Recognitors sont de-
fault que la ne sont 12, les Justices dassise ne poent agarder
tales de circumstantibus; car coment que Justices de Assise soit
nosme in le dit act de 35. Hen. 8. cibien come Justices de Nisi
prius, vnoce intaut que le dit act ne done power aux Ju-
stices dassise ou Nisi prius, mes ou le trial sera per deuze
homes in chescun brieve de Habeas corpora ou Distringas
oue Nisi prius, et ceo ne poet estre in Assise, car Assise ca-
piantur in proprio com', et ne vngues poet este pris le
Nisi prius in proprio com', et nul expositon poet este fait encon-

S iii ter

Alfridus Denbawds case.

ter expres parolz, car ceo sera viperina expositio que cor-
rodenter ventrem textus; & de tel opinion fuit Catlyn chiefe
Justice in son temps, & Gerard Attorney generall, et apres
eux Wray et Anderson chiefe Justices, Justices baillie in
Norfolk circuit.

Mich.

1612 breves & voluntarie.



Mich. 10. Jacobi Regis.

Humfrey Lofields case.

Homas Young & Dorothie la femme poys
action de Dec bres Thomas Milton et
Anne la femme exacuteur de Humfrey Lo-
field, sur obligation de 100L fait 20. De-
cemb. anno 6. Iac. Reg. per le dit Humfrey
Lofield al dit Dorothie dum sola fuit, les
defendantz demanderoyent del obligati-
on & del condition quel fuit, That if the withinbounaden Hum-
frey Lofield, his executors, administrators, and assignes, and every
of them, shall well and truely obserue, performe, and keepe all and
singular the couenants, payments, reseruations, graunts, articles,
and agreements contained in a paire of indentures bearing date
the day of the date of the obligation made betweene the saide
Humfrey and Dorothie *dum sola fuit*, which on his and their part
&c. & plead que per le dit Indenture, que ilz monstre auant,
le dit Dorothie, in consideration del rent appes per mesme
lindenture reserve, demisa al dit Humfrey Lofield by wine
celler in Gracesend, a auer et tenet al dit Humfrey Lofield
les executoz et assignes puis le feast de Martinie det
Christ donques prochein ensuant, pro termino vnius anni in-
tegrum extunc prox. sequentis, Et si in fine dicti vnius anni ambe
partes placerent, agrearent, & contentaret forent, quod eadem pres-
sens dimissio foret renouata, siue continuata pro aliquo longiori
tempore, tunc habend' & tenend' dimissa premissa dicto Humfri-
do Lofield executoribus et assignatis suis, ab et post dictum scilicet
Nati-

Humfrey Lofields case.

Natiuitatis dom. tunc prox. sequen' datū Indenturæ, vsq; plena riū
finem & terminum triū annorum extunç proxim sequentibꝫ,
Reddendo inde annuatim durâte dicto termino dicta Dorothea
exscutōribꝫ & assignatibꝫ suis quadrigant libras ad quatuor vñ dñl
dies festos, sine terminos &c. testassauoir Annuntiation ar.
oue clause de ditzes s̄t rent fuit acero per space de 10. toutz
puis ascun des feasts icet et plead que il occupie le dit celler
pur le space del dit p̄m̄t an, et all sine del dit an per forme
toutz les couenantz, payments, reservationg, icet. in les
ditz Indentures icet, le p̄le replie, à pur b̄reach monst que dit
Humfrey Lofield ne paya 10. l. due in le dit p̄m̄t an al
feast del birth de Christ pur vn quarter: sur que le defendat
demurre in ley. Et cest plea commence in communy banco Tr'
10. Iac. Reg. rott' 3434. Et fuit argue per les Henrie atgs accou-
cel oue le def. q̄ le dit lessene partie astret pur le p̄m̄t an,
et ceo pur 3. causes: 1. pur ceo que le reservation, come ceo
est fait, depend sur vn contingencie, cestassauoir, si au fine
del p̄m̄t an ambideux parties agrēt que le lease serf re-
newe & continu par a leant longer terme, donques n̄ auer et
tener le dit celler al dit Humfrey del feast del birth de Christ
procheine ensuant le date del Indenture pur 3. ans, Redde-
ndo inde annuatim durâte dicto termino dicta Dorothea &c. 40. l.
&c. illint que le Reddendo depend sur le dit contingent, le q̄l
ne vnques p̄t effect, car le lease ne fuit continue ouster le
p̄m̄t an. 2. Le reservation del rent est durante termino pre-
dicto, le quel estreant partie in le singular number relateſ sole-
ment al terme de 3. ans dacievement mention & nemys al
terme dun an, que fuit certaine & compleate devant le con-
tingent. 3. Que chescun reservation & exception serf p̄ise
strictē vers le lessoz & beneficiālment pur le lessor, pur ceo que
chescun reservation charge et incumber le terre demise, et
les parols del reservation sont les parols del lessoz & le re-
servation est son act, & pur ceo ne serf extend ouster ses pa-
rols, & illint est tenus in Hill & Granges casé in Plo Com. 171.
¶ a cest purpose les common cases in 12. Ed 3. tit' Affise 86. 17
Ed. 3. 52. & 17. Ass. pl. 10. 10. Ed. 4. 18. 27. H. 8. 19. a. & diuers au-
ters fueront cite. Et fuit dit ouster, si 2. tenir common ioin
in vn grant de vn boef, ou paire de esperous doze, ou esper-
uer, le grauntee auera deux boefs icet. mes ils font done in
talle ou lease pur vie ou ans rend vn boef icet. a eut & a lour
heires, ils durant lour bies ne lour several heires apres lour
mort aueront forsque vn boef icet. Et illint si home fait done
in

in taile de 2. actes, lun al common ley & lauter in Borough english, rend vn boeſe a luy & ſes hēes, & le donee ayant 2. fitz moꝝſt, & le ligné fitz inherite lun ac̄, & le puſne laut, in celi caſe le donou ſes hēes naſront foꝝſq; vn boeſe, p̄ ceo q̄ le reſeruation ſerē p̄rife ſtricte & ſug luy & ſes hēes. ¶ Mes fuit reſolute, que le dit reſeruation extendera al p̄mier an, car le proper lieu dun reſeruation eſt a venit ap̄ez le limitation de toutz leg estates: et pur ceo, ſi home per fait Indent demife terres al A. Habendum a luy pur vie, le remainder a B. et a les heires de ſon corps, et pur default diſſue de ſon corps, a reſtainer a D. in taile ou pur vie, Reddendo inde al leſſor & ſes hēes vn annuel rent, celi reſeruation extendeſt a toutz leg estates devant. Vide 3.4.E.3.tit. Auowrie. Et coment que le future terme ſoit entertaine, vñcoze certaine eſt que le leſſee auera le celler pur vn an & le reſeruation extendeſt a ceo, car durante termino predicto, coment que ſoit in le ſingular number, vñcoze eſt noſme collectiue & auera reſerience a cheſcun terme demife per le Indenture: et eſt deſtre obſerue, que ſi le leſſee vñ tenus le celler ouſter le dit p̄mier an, que le reſeruation ad extend ſauns question al p̄mier an, & le conſideration del fealauns del leafe fuit ſolem̄t in conſideration del rent reſerve in les ditz Indentures; et in auncient tempſ rent reſerve ſur demifes &c. fuit appell viuus reditus, pur ceo que le leſſor viue de ceo; & Vide Plowdens Com. in Hill et Graunges caſe 171. tiel construction ſerra fait in caſe De reſeruation del rent, que leſſor ne perdra ſon rent al aſcun iour &c. Et in Hillar' 23. Elizab. Rot' 1410. in communi banco, Dionisie Pasmet poſt Repl' bers Geozg Prowle pur p̄ſiel de les auers al Halberton in vn lieu appelle Terleigh Downe in le Countie de Deuon, le caſe come appiere per le Record fuit tiel: leafe fuit fait dun mese & terre pur ans ſi le leſſee cy longement viuera, & puis le leſſor per ſon fait inſtant graunta le mesuage & terre a vn auer, a auer & tener le reuerſion al grauntee pur vie, cum per mortem, ſurſumredditionem, vel foriſfacturam del leſſee, aut aliter, acciderit, Reddendo inde annuatim al grauntor & les heires cum reuerſio predicta acciderit ix.s.iii.d. per annum, le leſſee moꝝſt le grauntor del reuerſion diſtraine pur les arreſtages del rēt cibien devant le mort del leſſee come ap̄ez; et in celi caſe 4. points fueront reſolute clercement per tout le court, i. que per le demife del mesuage et terre pur vie le reuerſion de ceo paſſer,

Humfrey Lofields case.

passer, mes per graunt del reuersion terre in possession ne
passer. 2. Per le graunt del mesuage et terre, Habendum re-
uersionem &c. pur die puis le mort del lessor &c. que le Ha-
bendum est bone, car in Judgement del ley riens fosque le
reuersion est graunt per les premisses, et come in Throck-
mortons case Pl.Com.147. quant reuersion est graunt, Habé-
dum la terre, le Habendum est adiudice bone, issint quant le
terre est graunt Habendum le reuersion, et puis le mort del
lessor &c. est in construction taunt a dire come a prendre ef-
fect in possession puis le mort &c. Auxy le Habendum vst este
bone, comment nul mention ad este fait ou del terre ou del re-
uersion in le Habendum, car le principal office del Habendum
est a limiter lestate del terre conteynus in le premisses. 3.
Fuit resolue que per le dit reseruation le rent ne commence-
ra deuant le reuersion eschiet in possession, et ceux parols
cum reuersio predicta acciderit serf expound solonque lente-
tion des parties, que ne fuit que grauntee pur vie paic le
rent reserue deuant que il poet prendre les profits a raiiser
le rent de eux. 4. Que le distresse fuit bien prise pur les ar-
rerages puis le mort del lessor, et nemy pur lez arrerages in-
curre deuant. Nota per le seignior Dier in 23. Eliz. Reginæ fo.
376. & 377. quel proue que reseruations serf expound solon-
que le reasonable intendement des parties destre collect per
les parols de lour fait; & est apparant que lenthention des
parties in le cas al barre fuit, que le lessor paiera rent pur le
temps que per force del dit Demise il occupie le dit celler:
mes instant que lobligation fuit forceit, le court moue le p^{re} a
prendre les arrerages, costes, & damages, que q il fuit contët,
et issint nul Judgement fuit done.

Nota Leceur, quant al dit casse mis al barre dun done in
taile dun acre al common ley, & dun acre in Borowen english
rendant un boef, & puis le donee morust ayant issue 2. fts,
issint que lun acre descend al un et lauter al autre, que fos-
que un boef sera paie, pur le meilleur apprehension del ley
& del reason de ceo in cest casse & auters semblable, est assa-
noire, que la est diuersite in ley, quant per operation del ley
fauns act del partie la serf multiplication dun intre ser-
vice, et quant nemy: Et pur ceo la est diuersite enter verie
Seignior et verie tenant, et inter le donoz et donee, ou le lessor
et lessor, car in casse de verie seignior et verie tenant, cibie
le annuel come le casuel entree services in plusoz casse serf
multi-

Humfrey Lofields case.

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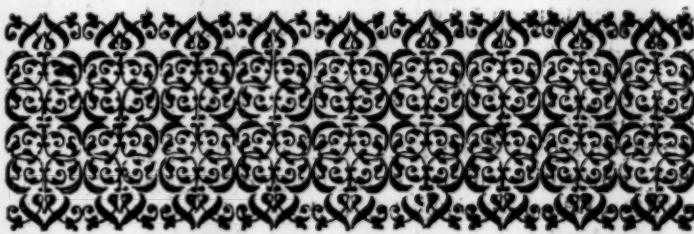
multiplie, come appiert in Bruertons case in le 6. parts de mes Reports, et in le 8. part de mes Reports fol. 102. in John Talbots case : Mes in le case del donoz et donee, ou lessoz et lessée, l'entire rent reserue ne sera per aucun division ou del reversion ou del possession per act in ley multiplie ; et pur ceo si in le dit case del vn acre al common ley et del autre in Broughtong englishe le donee deuie ayant 2. fts cest leuerall discent que est act in ley ne chargera chescun de eux oue l'entire seruice nient plus que si le donoz in mesme le case moxist ayant issae 2. fts issint que le reversion discend leuerallment per act in ley , bnoze le donee ne iour heires ne serz charge lorsque oue vn entre seruise. Illint si home soit seisie de 2. acres, lun de part son pier , et lauter de part sa mere , et fist lease dambideux pur vie, reseruant annuellement vn agnel al lessoz et les heires , et lessoz moxist laung issue de son corps, les leueral heires naueront 2. agnels, mes vn aguel solement. Illint si home dome terre a deuy homes et a les heires de iour deux corps ingendres rendant vn esperuer, et ils deuieront, iour leuerall issuez ne paiera forisque vn esperuer : et le reason de ceul et autres semblable cases, que l'entire seruices in ceux cases ne tressel, est, pur ceo que le reseruation del donoz ou lessoz est son title solement, et quant il mesme reserue forisque vn, le ley, que tous soits est foundue sur droit et equite, ne bnoques encrestra ceo , ou donee a lui plus que il mesme ad reserue. Et le reason de cest diversite appiert in Woodlands Plow. Coment. 94. car incrochment per le donour sur le donee, ou del lessoz sur le lessée, ne liera eur in auowrie , come ceo sera inter seignior et tenaunt , et le reason est, pur ceo que quant le donour et lessoz, ou le heire de aucun de eux auowas, il doet monstre le originall reseruation , per que appiert quant le donour ou lessour ad reserue : Et oue ceo accord le Judgement in Sir William Fosters case in le 8. part de mes Reports fol. 64. que le donour ou lessour ne besoigne in auowrie dalledger seisin, ne encrochment sur eux liera ent, pur ceo que le reseruation est leur title. Mes si seignior et tenaunt soit, et le tenaunt fait done in taile ou lessée pur vie le remainder in fee , la incrochment per le seignior sur le donee ou lessée liera eux , car le seignior ne besoigne a monstre le commencement del seigniorie ; mes ne liera issue in taile : que ceo accord 20. Ed. 3. tit. Auowrie 131. 5. E. 4.2. & F.N.B. 11. a. si la ley est quant le ley create le tenure,

come

Humfrey Lofields case.

come si sñiorz & ten soit per fealtie & le annuel rent dun Agnel, & le test fait done in taile a 2, homes & aux heires de lour corps san asz reseruac, ore les donees tiendra del donoz per auctiel services, come il tient ouster, Lit. fol. 4.b. 33. H. 6.7. &c. bñc si les donees ayant issues morust lour seuerall issues ne paiera sozque un agnel, car ne donoz ou les hñs in auowrie doit mre le tenure int le sñiorz & test, & le done in taile, issint q appies al court q sozque un agnel al tempz del done fuit due et le ley in pretudice del heires des donees ne increaseret ceo. Mez la est diuersitie int ceux qui sont intire services, car asz services y le mere operation del ley serre increase, & pur ceo si home seissie de 2, accessiun al comon ley, & lauter del custome de Borough Anglois, & fait done in taile dambis, & le donee ayant issue 2, fils morust ambideux legistes ferre fealtie, si la ley de homage si c soit reserue per le partie, ou create y le ley. Issint si le doner morust ayant issue 2. fils, ambideux les fils aueront homage & fealtie: & issint diuersitie int entre services de profit & de nul fidelite, & services de fidelite & de nul profit. Meme la ley est si sñiorz & ten soient per service de chyre, & le test done le tenaunce a 2. homes & a lour heires de lour corps, & fils morust ayant issue, lour issu reigne fermeurant y service de chyre, car ceo est pur le defence del sñiorz et del realme: et issint aux diuersitie enter entre service pur le primate profit del sñiorz, & service entier y le publique defence del realme. Vide tousz ceux in le dit cas de John Talbot cite, & per ceux & aux diuersitie la mre tousz les liures directement prouant eux soient bien fassus aucun contrariete ou difficultie accord.

Mich:



Michael. 10. Jacobi Regis
que commence Paschæ 10. Jacobi
Rotulo 1639. in communi Ban-
co.

Arthur Legats case, in subuersion
des pestilent patents des laron-
neux concealours.



Dwardus Cockle nuper de Wimondham in co-
mitatu predicto husbandman attachiatus fuit ad
respondendum Arthuro Legat generoso, de pla-
cito quare vi & armis sex acras pasture & sex a-
cras bosci cum pertinentijs in Wimondham
quas Iohannes Smith generosus prefato Arthur-
ro dimisit ad terminum qui nondum præterijt, intravit, Et ip-
sum a firma sua predicta eiecit, et alia enormia ei intulit, ad
graue dampnum ipsius Arthuri, et contra pacem dom. Regis nunc
&c. Et unde idem Arthurus per Robert' Loue Atton' suum
queritur, quod cum predictus Iohannes decimo nono die Oc-
toberis

Arthur Legats case.

tobris anno regni domini Regis nunc Angliae octavo apud Wimondham dimisisset eidem Arthuro tenementa predicta cum pertinentijs habendum & tenendum eidem Arthuro executoribus & administratoribus suis a festo sancti Michaelis Archangeli tunc ultim' præterit' pro & durante termino 3. annorum extunc proxime sequentium plenarie complendorum & finiendorum virtute cuius dimissionis idem Arthurus in tenementa prædicta cum pertinentijs intravit, & fuit inde possessionatus quoisque predictus Edwardus postea scilicet decimo die Aprilis anno regni dicti domini regis tunc Angliae nono vi & armis &c. tenementa prædicta cum pertinentijs quæ predictus Iohannes eidem Arthuro in forma prædicta dimisit ad prædictum terminum qui nondum præteriit, intravit, & ipsum a firma sua prædicta eiecit, & alia enormia &c. Et contra pacem &c. vnde dicit quod deterioratus est, & dampnum habet ad valentiam virginis librarum, & inde producit lectam &c. Et predictus Edwardus per Thomam Blofield Attornatum suum venit & defendit vim & iniuriam quando &c. Et dicit quod ipse in nullo est culpabilis de transgressione & eiectione predictis, prout predictus Arthurus superius versus eum queritur, & de hoc ponit se super patriam. Et predictus Arthurus similiter, Ideo preceptum est vicecometi quod venire faciat hic a die sanctæ Trinitatis in tres septimanæ duodecim per quos &c. Et qui nec &c. Ad recognoscendam &c. Quia tam &c. Ad quem diem Iurata inter partes predictas de predicto placito posit' fuit inter eas in respectum hic usque ad hunc diem scilicet in octabis sancti Michaelis tunc proximi sequenti'. Nisi Iustic' domini Regis ad Afferas in comitatu predicto capiend' assig' per formam statuti &c. die Lune quintodecimo die Iulij proim' præterit' apud Castrum Norwic. in comitatu predicto prius venissent, Et modo hic ad hunc ven' tam predictus Arthurus quam predictus Edwardus per attornatos suos predictos, Et præfat' Iustic' ad Afferas coram quibus &c. mis. hic recordum suum in haec verba, Postea die & loco infracontent' coram Edwardo Coke milite capitali Iustic' domini Regis de banco, & Iohanne Crooke milite uno Iustic' dicti dom. Regis ad placita coram ipso rege tenend' assig' Iustic' eiusdem dom. Regis ad Afferas in comitatu Norfolk. capiend' assig' per formam statuti &c. ven' tam infranominat' Arthurus Legat quam infrascript' Edwardus Cockle per attornatum eius infracontent' Et Iur' Iur'e unde

Arthur Legats case.

de infra fit mentio exact' similiter vener', quorum duodecim, vi-
delicet, Robertus Seaman, Adam Bale, Bartholomeus Har-
rison, Thomas Reynaldes, Willielmus Bidwell, Henricus
Howlet, Thotias Crooke, Richardus Russell, Thomas Til-
ney, Iohannes Freeman, Iohannes Jewell & Edmundus John-
son in Iur'm prædictam Iurat' existunt, Postmodumque unus
Iur' prædict', videlicet, prædictus Robertus Seaman, ex assensu
ambarum partium predictarum, ac per mandatum Iusticiarior'
prædictorum, a panellō predicto penitus extrahitur &c. Ideò
ex assensu partium predictarum, Iur'a predicta ulterius ponit
tur in respectum, hic usque in Octabis sancti Hillarij, Ideo vi-
cecomes habeat corpora &c. Et appon' decem Tales, ad quem
diem hic venit tam prædictus Arthurus, quam prædictus Ed-
wardus per Attornatos suos predictos, Et vicecom' modo
mandat, quod quoad distringend' Bartholomeum Stone & ex-
teros Iuratores, breue domini Regis sibi direct', notinat'
breue illud, adeo tarde sibi delibera' fuit, quod propter breui-
tatem temporis nullam inde executionem facere potuit, sed
quoad ponend' decem Tales unde in eodem breui siebat men-
tio, idem vicecom' modo mandat, quod executio inde patebat
in scedula breui illi annex. in qua quidem seedula continetur
panellum de nominibus decem Iuratotum, quorum nullus &c.
Ideo Iurata predicta ulterius ponitur in respectum hic usque a
die Pascha in quindecim dies, Nisi Iustic' domini Regis ad
Afflas in comitatu predicto capienda assign' per formam sta-
tuti &c. die Mercurij in prima septimana Quadragesime, apud
Theford in comitatu predicto Prims venerant, pro defectu Iur'
&c. Ideo vicecom' distring' Iuratores predictos per omnes ter-
ras &c. Et quod de exit' &c. Ita quod sunt hic nisi &c. ad faci-
end' Iur'm pred' &c.

Norff. ss. Postea die et loco infraconten', coram Edwardo
Coke milite, capitali Iustic' domini Regis de Banco, et Iohan-
ne Crooke milite, uno Iusticiar' dicti domini Regis ad pla-
cita coram ipso Rege tenenda assignato, Iusticiario eiusdem
domini Regis ad Afflas in comitatu Norffolciæ capiendas af-
signato per formam statuti &c. venit tam infranominatus
Arthurus Legat, quam infrascriptus Edwardus Cockle per
Attornatos suos infracontentos, Et Iuratores Iuratz unde

Arthur Legats case.

infra sit mentio exacti similiter venerunt, qui ad veritatem de infracontent' dicend', elect', triat', & iurat', dic' super sacramentum suum, quod nuper Rex & Regina Philippus & Maria, nono die Iulij annis regnorum corundem Regis & Reginae Philippi & Mariæ quarto et sexto, fuerunt seisiti de & in manorio de Wymondham in comitatu prædicto in dominiaco suo ut de feodo, in iure coronæ suæ Angliae, vnde terræ et tenementa in narratione infra scripta tunc fuerunt parcell', prædictisque nuper Rege & Regina Philippo & Maria, sic ut persertur, de & in manorio prædicto vnde &c. seisitis existentibus, ijdem Rex & Regina eodem nono die Iulij annis regnorum dictorum nuper regis & reginæ Philippi & Mariæ quarto & sexto, fecerunt literas suas patentes sub magno sigillo suo Angliae, cuidam Georgio Howard militi, de predictis terris & tenementis in narratione infra scripta nominatis, inter alia per nomina duarum peciarum terræ vocat' Nettlehamsted et Wykemans, continent' per estimationem quindecim acras, iacent' & existen' in Wymondham predicta in comitatu prædicto, tunc vel nuper in tenura siue occupatione Iohannis Coleman, ac nuper Monasterio de Wymondham quondam spectan' & pertinen', ac parcella possessionum inde tunc existen', quarum quidem literarum patent' tenor sequitur in hæc verba: rex & regina omnibus ad quos &c. salutem, Scatis quod nos in consideratione boni, veri, & fidelis seruicij per dilectum & fidem seruientem nostrum Georgium Howard militem antehac nobis impensi, ac pro diuersis alijs causis et considerationibus nos specialiter mouentibus, de gratia nostra speciali, ac ex certa scientia & mero motu nostris dedimus et concessimus, ac per presentes damus et concedimus pro nobis, heredibus, & successoribus nostrum præfatae reginæ prefato Georgio Howard omnes illas duas acras terræ nostras, iacentes & existentes in Ashwyuen in comitatu nostro Norffolciæ &c. Damus etiam & concedimus per presentes prefato Georgio Howard militi duas pecias terræ nostras vocat' Nettlehamsted & Wykemans, continentes per estimationem quindecim acras, iacentes & existentes in Wymondham predicta, in comitatu prædicto, modo vel nuper in tenura, siue occupatione Iohannis Coleman, ac nuper Monasterio

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nafterio de Wyndham quondam spectantes & pertinentes, ac parcella possessionum inde existent' &c. Damus etiam, et pro consideratione praedicta, per presentes pro nobis, hereditibus & successoribus nostrum prefatæ Reginæ, concedimus praetato Georgio Howard militi omnes & omnimodos boscos et subboscos & arbores nostros quascunque, de, in, et super præmissis crescentes & existentes, ac totam terram, fundum, & solum eorundem boscorum, subboscorum, & arborum, & reuersionem & reuersiones quascunque omnium et singulorum præmissorum superius expressorum & specificatorum, & cuiuslibet inde parcell', necnon reddit' annual' proficia quæcunque reseruat' super quibuscunque dimiss. et concess. de præmissis seu de aliqua inde parcella quoquo modo fact', adeo plene & integre, ac in tam amplis modo & forma prout aliqui Abbates, Priors dict' nuper Abbat' & Priorat' eorum alicuius, aut aliqui Gardiani, aut aliqui Cappellani vel Cantarisi vel Incumbentes, aut aliquis Cappellanus Cantarisi vel Incumbens Cantariarum, Gildarum, Lampaed', Obit', & Luminar' praedict', aut aliquis alius siue aliqui alij præmissa, aut aliquam inde parcellam antehac habentes, possidentes vñquam habuerunt, tenuerunt, vel gauisi fuerunt, habuit, tenuit, vel gauisus fuit, seu habere, tenere, vti, vel gaudere debuerunt, aut debuit, adeo plene, libere, & integre, ac in tam amplis modo & forma, prout ea omnia & singula præmissa ad manus nostras, seu ad manus præcharissimi patris nostrum prefatæ Reginæ, Henrici octaui nuper Regis Angliae, vel ad manus præcharissimi fratris nostrum prefatæ Reginæ, Edwardi sexti, nuper Regis Angliae, ratione vel pretextu general' dissolution' dicti nuper Monasterij, Priorat', Cantariar', Gild', Lampaed', Obit', & Luminar' praedict', aut ratione alicuius actus Parliamenti, seu aliquorum actuum Parliamenti, seu quocunque alio legali modo, iure, seu titulo deuenire debuerunt, ac in manus nostras iam de iure, ratione dissolution' dictorum nuper Monasterij, Prioratus, Cantar', Gild', Lampaed', Obit', & Luminar' existere debent vel deberent, Quæ quidem omnia et singula præmissa cum pertinentijs, a nobis, ac a patre, & fratre nostrum p[ro]f. Reginæ concelet', & detent' fuer', ac reddit' & reuentiones inde nec alicuius inde parcell' nobis antehac

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antehac responsa fuerunt, Et quæ quidem omnia et singula
præmissa cum pertinentijs modo in toto extendentia ad clara-
rum annum valorem viginti & duarum librarum, octo soli-
dorum, & sex denariorum, Et non ultra, videlicet, &c. præ-
dictæ terræ, tenementæ, prata, pasturæ, & cætera præmissa in Posse-
wicke, Keningham, Mallingham, magna Berlingham, Gist,
Girton, Holme, Hunstonston, Alderford, Duckleborowe
Boyton in parochia Sancti Georgij in Ciuitate comitatus
Norwici, Buckenham, noua Wymondham, Plumsted, Ty-
lenham, Southelingham, Dinharn, & Estlyham prædictis
in dicto comitatu Norffolk. ad clarum annum valorem
quinquaginta sex solidorum & quatuor denariorum &c. Pro-
viso semper quod si contingat prædictas terras & tenementa
superius expressæ & specificatæ aut aliquam inde parcellam tem-
pore confectionis harum literarum nostrarum patentium esse
maioris anni valoris, antiqui redditus, quam in præsentibus
literis patentibus particulariter specificatæ, quod tunc bene li-
cebit nobis præfatis Regi & Reginæ hæredibus & successorib-
us nostrum præfatæ Reginæ de tempore in tempus durante
termino decem annorum post datum harum literarum paten-
tium, in omnia prædicta terras, tenementa, & cætera præmissa
in quamlibet inde parcellam sic maioris anni valoris existen-
trare & ea seire, habere, & manibus & possessione nostris re-
tinere, quo usque nos præfati Rex & Reginæ hæredes & succe-
sores nostrum præfatæ Reginæ de tantis denariorum summis
bonæ & legalis monetæ Angliae, ad quant' huiusmodi maior
et annuus valor præmissæ. seu alicuius inde parcellæ secundum
ratum perquisitionis viginti annorum se attingent' sumus
inde satisfactæ et persolutæ, Habendæ, tenendæ, & gaudendæ prædi-
cta mesuagia, domos, edificia, terras, tenementa, prata, pas-
cua, pasturas, boscos, subboscos, redditæ, reversiones, & hæ-
reditamenta nostra quæ cunque cum pertinentijs ac cætera om-
nia & singula præmissa cum eorum pertinente vnueris præfa-
to Georgio Howard militi hæredibus & assignatis suis ad pro-
prium opus & usum ipsius Georgij ac hæred' & assignat' suo-
rum imperpetuum, tenendæ prædictæ mesuagia terræ tenenda & ex-
tera omnia & singula præmissa cum eorum pertinente de nobis ac
hæred' & successoribus nostrum præfatæ Reginæ ut de manerio
nostro

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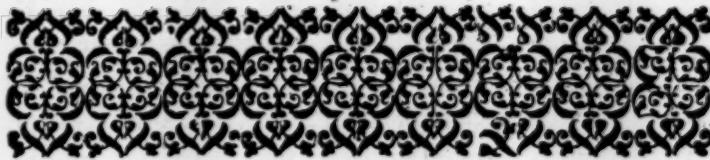
nostro de East Greenwich in comitatu nostro Kanc' per fidelitatem tant' in libero socagio & non capite pro omnibus reddit' seruicijs & demaund' quibuscumque proinde nobis hæredibus & successoribus nostrum præfat' Reginæ proinde quoquo modo reddend' soluend' vel faciend', Et vltierius de ampliori gratia nostra speciali dedimus & concessimus & per præsentes pro nobis hæredibus & successoribus nostrum præfatæ Reginæ damus & concedimus præfat' Georgio Howard militi omnia extunc redd' reuersiones & proficia omnium & singulorum præmissorum cum eorum pertinen' a fest' Annunciations beat' Mariæ virginis ultim' præterit' hucusque prouenien' siue crescen' habend' eadem ex dono nostro absque comp' seu aliquo al' proinde nobis hæredibus & successoribus nostrum præfat' Reginæ quoquo modo reddend' soluend' vel faciend'. Volumus etiā & per præsentes concedimus præfato Georgio Howard quod habeat & habebit has literas nostras paten' debit' modo fact' & sigillat' absque fine seu feod' magno vel paruo nobis in Hanaperio nostro seu alibi ad vsum nostrum proinde quoquo modo reddend' soluend' vel faciend' eo quod expressa mentio &c. In cuius rei &c. T. R. & R. apud Westmonaster' ix. die Iulij annis quarto & quinto Philippi & Mariæ, Et vltierius Iur' prædicti dicunt super sacramentum suum quod prædicto tempore confectiōnis prædictarum literarum patentium sic ut præfertur præfat Georgio Howard manerium prædictum a prædictis nuper rege & regina non concelat' nec detent' fuit, sed reddit' & reuersiones inde dicto domino regi & dominæ reginæ tunc respons. fuerunt, ac manerium illud adtunc fuit in onere & comp' de recordo, ac reddit' & reuersiones inde p'f. nuper regi & reginæ Ph. & Mar' respons. fuerunt sed vtrum terr' & ten' in narr' infrascript' mentionat' per easdem lī'as paten' pref. Georgio Howard militi transiuerunt necne Iur'a prædict' penitus ignorat, & inde petit aduisament' & considerationem cur' in præmissis & si super totam materiam prædictam per Iur' prædictos in forma prædicta compert' videbitur Iustic' & Cur' quod prædict' terr' & tenementa in narratione infrascript' mentionat' per prædictas literas patenties domainorum Ph. & Mariæ nuper regis & reginæ Angl' præfat' Georgio Howard transiuerunt, tunc Iur' prædict' dic' quod prædictus Edwardus Cockle non est culpabilis

de

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de transfr' & eiectione infraspec' prout ipse interius placitandum
allegauit, & super totam materiam per Iur' predictos in forma
predict' cōpert' videbitur Iustic' & Cui', quod terr' & tēnement' in
narratione infrascript' mentionat' per predict' literas paten' domi-
niorum Ph. & Mar. nuper regis & reginæ Angliae p̄fāt' Georgio
Howard non transiuerunt &c.

Mich.



Mich. 10. Iac. Regis que
mence Pasch. 10. Ia. Rot. 1639. in com-
muni banco.

Arthur Legats case, in subuersion des
pestilent patents des laronneux con-
cealors.

Arthur Legat gesi post Electione firmz d^e
Ed. Cockle sur demile fait de 6. acres de
bois in Wimondhā in le countie de Nors.
per Joh. Smith 19. Octo. an. 8. Ia. h 3. anz
et que le def. luy etec zt. le def. pleade non
culp. & special verdit fuit troue a ce effect.
Le rooy et roigne Ph. & Mar. fuet leisie del
mannoz de Wimondham in le countie de Norsfolke in fee in
droit de lour corzone Danglitterre (dont le dit 6. acres de bois
in queux zt. fueront parcell) et Iulij annis 4. et 6. del dit Roy
et roigne per lour letters patentz desouth legraund seale
Danglitterre in consideration del seruice fait per s^r George
Howard Chinaler ex certa sentia, mero motu, & gratia spe-
ciali done et graunt al dit George Howard (inter alia) om-
nes illas duas pecias terra nostras vocat' Nettlehamsted et Wike-
mans cont' per estimation' 15. acras iac' et exist' in Wimōdham in
com Norsf. modo vel nup in tenura siue occupatione Io. Colman
ac nup monast' de Wimondhā quond' spec' & ptin &c. quz quid

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omnia & singula præmissa cum pertinentijs a nobis ac a patre & fratre nostris prefatae reginæ concelata et detent' fuer', ac redditus & reuentiones inde nec alicuius inde pcellæ ante hac respōla fuer'. Habed' prod Georgio Howard milit' hared' & assignat suis &c. Et quod les dits 6. acres de bois dont zc. fuer' pcel del dit tre appelle Nettlehamsted & Wikkemangs. Et quod le dit manoz de Wimondham dont zc. al temps del feasans des dits leges patents non concelar' nec detent' fuit, sed fuit in onore & cōpoto, ac les rents et parts de consauant des dits terres appelle Nettlehamsted & Wikkemangs fuit responde al roy deuaut & al temps des dits leges patents; Et si les dits tres appelle Nettlehamsted & Wikkemangs esteant pcel del dit manoz passet ou nemy fuit le question; Et si les dits tres ne passet my per les dits leges patents, donqs ils troueront per le plz zc. a si zc. Et in cest case 3. questions fuet mouue. 1. Si les dits 2. parts del manoz appelle N. & W. serf conte cest case est dit in ley conceale ou detaine del roy quod le manoz en dont zc. est in charge al roy et roigne, comit quod in veritie in les 2. parts appelle N. & W. fuit occupie per un intruder quod riens pur eux. Le 2. question fuit intant quod le dit grant fuit de les dits 2. parts per special nosmes de N. & W. in Wimondham in comt Norff. & ad ceux certeinties, s. modo vel nuper in tenura siue occupation' Johis Colman, ac nuper monasterio de Wimondham quondam spectan' &c. (touts queux fuet votier) si les dits 2. parts passeront nient obstant que ils ne seraient in ley conceale ne detaine. 3. Si le dit graunt per leges patents ex certa scientia, mero motu, & gratia speciali, ferra le graunt bone nient obstant le fauxitie del dit clause de Queuidem, &c.

CEt quant al primer fuit resolute, que quant le Roy et roigne fuet responde del auncient rent del manoz, comment que les fearmors ou officiers et ministers le roy permitront ascutir de intruder in aucun parcel del manoz, vnoce ceo ne serf dit in ley conceale ne detaine; car le manoz est in charge et per consequence in ley chescun part de ceo, et Turpis est pars quez non conuenit cum suo toto.

CQuant al 2. fuit obiect, que la fuit multiplicite de certaintie in le clause del graunt mesme; 1. in le chose grant, testassauoir, per certaine nosmes 2. per certaine content, testassauoir, 15. acres, 3. in certaine ville, 4. in certaine countie, 5. in locupation dun certaine person, 6. in title, nuper Monasterio de Wimondham spectan'; et tous ceux sont boier, & pur ceo comit in veritie les dits terres appelle N. & W.

et nō, ne fuet conceale, vncoze ilz passet, car vtile p inutile non
vitiatur: ⁊ pur ceo ilz titont le livre in 29.E.3.fo.9.ou le top E.
3. grant al william Countee de Halsbury le sitz omnes ad-
uocations Eccliarum quæ pertinent ad prioratum de Mounte-
gue &c. & quas nuper concessimus Will'o adonques Comiti Sa-
rum patri predicti Willielmi, ⁊ in veritie laduowlson del Es-
glise de D, adóques in question ne fuit grāt al pier, ⁊ vncot
la le grant est tenus bone: ⁊ si ceo fuit in le case dun common
person, le faux Quæ quidē &c. ne auoidē le grant. Mes fuit
responde ⁊ resolute per totā cur', que le grant fuit boide pur
4. reasons; 1. pur ē q̄ le clause de Quæ quidē &c. fuit in iudge-
ment del ley le suggestion del partie. 2. que ē fuit vn clause
de restraint a restringer le grāt al chose solemēt conceale del
roy ⁊ roigne &c. ⁊ nem̄ in charge, 3. a fine le roy ⁊ roigne nē-
tendont my a diminuer alcun part de lour revenue, 4. intāt
que les parols sont in le coniunctiue concelata & derenta fuer'
&c. in quel case si la terre poet este dir detene del roy, ou ne-
my. Quant al p̄m̄, s. que le dit clause de Quæ quidem &c.
sera pris in ley come le suggestion del partie, in 19.Ed.3.tit'
Grant 58.le roy per les letters patents done licence dappro-
priater laduowlson de D. al prior de L quæ quidem aduoçatio
non tenetur de nobis &c. ⁊ in veritie laduowlson fuit tenus me-
diatement del roy, ⁊ le licence fuit tenus boide, car le livre
dit que le suggestion fuit faux. Et in 21.E.4.48. si le roy grāt
le mannoz de D. &c. quod quidem manerium ad manus nostras
deuenit ratione eschaer' &c. ⁊ in veritie le mannoz ne vient al
roy per escheate, le graunt est boide; ⁊ le reason que Hussey
chiche Justice la tend est. p̄ ceo que le fauritie vient del suc-
misse del partie: Et oultre accord 8.H.7.3.37.H.8.tit' Patents
Br' 79.H.6.28. Et in 16.E.4.fo.7.est ten⁹, q̄ le patentee ne p̄n-
dē aduantage dasun autre title q̄ ceo que est exp̄res in les
lēgs patents: ⁊ in lart del confirmation des lēgs patents an'
18.Eliz.ca.2. la est vn puiso. Prouided alwaies, that this act &c.
shall not extend to any letters patents which at any time since the
beginning of her Maiesties raigne haue beeene or hereafter shalbe
granted by the queenes highnesse to any person or persons of any
manners, lands &c. by force of any information fuit or suggestiō
made or to be made to hir highnes, that the same manors läds &c.
were concealed lands: ⁊ toutes foits puis cest act, ⁊ puis au-
tel act del confirmation des lēgs patents an' 43.reg. El.c.19.les
dits clauses de Quæ quid &c. et ordinarie promisoes contenues
concealent, fuet construe ⁊ vrise in ley pur informations,
Tijsuggesti-

Arthur Legats case

suggestions et suites del patentee al roigne p terres conceale. Quant al 2, le dit clause de Quæ quidem &c. conteine pmeols de restraint insert pur le benefit le rooy, car ceo imply vn suggestiō al rooy (come ad est dit) a vn respons fait a c per le rooy, s. le suggestion del patentee al rooy est, que il ad troue terres, queux sont conceale de luy, a de queux il nad aucun rent, profit, ou autre benefit r̄ndue, a pur ceo pleist au rooy in reward de son seruice ac. a graunter ceux terres a luy queux il per son industrie ad troue dappertaine al rooy ; A. quel le rooy responde, ieo sue content a graunter a vous les dits terres, il- lant que colonque vostre suggestiō ceux sont conceale de no^z, a dont nous nauomus aucun rent ou profit r̄nde ; sur que le dit clause de Quæ quidem &c. fuit addé in le patent a restrainer le graunt le rooy aux terres solement queux furent conceale de luy a nuls auters dount le rooy fuit r̄ndue aucun rent ou profit. Quod restringendi causa additur in casu domini regis, si falsum sit vitiat cartā : et pur ceo vn notable case fuit cite que fuit adiudige Mich. 22. & 23. Eliz. Reginz in banke le rooy, mes ceo fuit entre Pascha 21. Reginz Eliz. Rott' 33. ou le case fuit, que Frauncis Wowe porz Electione firma berg Rich. Smith fut demise fait per Leonard Wowe 3. Octob. anno 20. Elizab. Reginz dun mese ac. in Hallington in le countie de Leic : le defendant pleade rien culp. a al Nisi prius deuaunt Syz James Dier adonques chiese Justice del banke ac. vn especiaill verdit fuit troue a cest effect : Willm Dexter fuit seilli del mannoz de Hallington in le dit countie de Leic in fee, dount le dit mese ac. fuit parcell, et in tempz R. 2. ent enesse Henrie Countee de Darbie a ses heires, a puis le dyt Countee assume sur luy le corzone a regimen de cest realme per le uosme de Henrie le 4. a puis 2. Aprilis ann' regni sui 7. ad humilem petitio nem et supplicationem quorundam Iohannis Myton et Margaretae vxoris eius consanguinear. et hæredis dicti Willielmi Dexter, videlicet, filia Willielmi, filij predicti Willielmi Dexter, de gratia sua speciali per literas suas patentes sigillo Ducatus sui Lancastriæ confess' gerentes datū eisdem die et ann', dedit & concessit p. Johi Myton, et Margar' uxori suæ maner' p. vnde &c. Habēd' eis et hæred' de corpore eiusd' Margaret' legitim' pcreat' &c. le dit Jo. Mytō & Marg' la fée ont issue a moysi; a puis vn Thomas Wowe colin a heire del corps anno 1: reginae Maria dez ditz tenementz in queux ac. infesse le dit Richard Smith ore def. a del residue del mannoz infesse le dit Leonard Wowe le lessor del p. a le iury troue ouster

Voiles case
in Mich.
22. et 23. El.
in banke le
roy.

in subuersion, &c.

III

in ceulz parolz, idemq; Leonardus Vowe frater predicit Tho.
Vowe postea s. primate die Iulij anno regni dictæ dominæ reginæ
nunc 17. in vita dicti Tho. Vowe senioris fratris sui, dans eidem
dnæ reginæ intelligi & informari scipsum fore propriū exitum &
hæredē de corpore prefat' Margareta Myton legitimè procreat',
eidē dominæ reginæ humiliè supplicavit, vt eadem domina re-
gina nunc per literas suas patentes sub magno sigillo suo Anglie
sigilland' renouare & confirmare velit eidem Leonardo & hæred'
suis de corpore suo legitimè procreat' predict' cartam factam per
prefatum quondam H.4. gerent' datum &c. Per quod domina re-
gina nunc humili petitioni dict' Leonardi annuens & informatio-
ni sua fidem abhibens, primo die Iulij anno 17. Volentes dictam
intentionem predicti regis H.4. effectum capere & non euacuari,
de gratia sua speciali & ex certa scientia & mero motu, certis cau-
sis & considerationibus ipsam dominam reginam specialiter mo-
uentibus, per literas suas patentes gerent' dat' eisdem die & anno
dedit & concessit predicto Leonardo Vowe existen' (vt datum fuit
eidem dominæ reginæ intelligi) proxim' hæredi & exitui de corpo-
re predictæ Margareta Myton legitimè procreat', manerium pre-
dictum vnde &c. Habendum et tenendum predicto Leonardo et
hæredibus de corpore suo legitimè procreat', vbi reuera predictus
Leonardus non fuit proximus hæres de corpore predictæ Margar-
eta Myton, sed predictus Thomas Vow fuit in plena vita & fra-
ter senior ciudem Leonardi, & puis Thomas Vowe mortuus
laungs issue, puis quel mort le dit Leonard addiques fuit in
veritie procheine heire del corps del dit Margareta Myton:
Le roigne recitant le dit misprislo, & tout le dit speciall mat-
ter desouth son priuie seale post date 9. Iulij anno regni sui 20.
(pur este garaunt al graund seale) graunt al dit Leonard
Vowe le dit mannoz dont ac. in taile, mes deuant que il ad
obtaine ceo desouth le graund seale, le dit roigne, 2. Septemb.
anno regni sui 20. supradicto, per ses letters patent's desouth
le grand seale, granta al dit John Farnham esquice vn de
ses pësoners le dit mese ac. in quo &c. inter alia per nomen to-
tius illius mesuagij voc' Vowes, alias Mitons, alis Dexters, in Hal-
langston in comitat' Leic', quæ quidem omnia & singula pmissa et
quælibet inde parcella à nobis aut à patre, fratre vel sorore nostris
hucusq; vel vsq; 8. diem Octob. anno regni nr' i 17. concelata, sub-
tracta, vel iniuste detent' fuer' &c. a aii & tñ al dit John Farn-
ham & ses heires a toutes iours, Prouiso semper, quod si p-
missa non sunt aut non fuer' à nobis aut à dictis patre, fratre, vel so-
rore nostris concelata, subtracta, vel iniuste detent', & sic remanser'

T iiij

visque

Arthur Legats case

vsq; tempus captionis prima: inquisitionis vel informationis &c.
quod tunc hæ literæ patentes quoad &c. vacuæ erunt, & le p̄m
certificate fuit Octabis Trinitat' ann' regni dict' dn' & reginæ Eli.
20. et puis, cestauoire, le p̄m tour de October adon-
ques procheine ensuant, le dit Leonard Vowe obtaine let-
ters patents desouth le graund seale solonque le dit p̄m
seale, & le dit p̄m tour de October le 20. an auant dit le dic.
John Farnham per fait indent & incolle bargaine & vend al-
dit Richard Smith oze defendant le dit mese &c. in quo &c. a
auer & tener a luy et ses heires, que per force de ceo enter &c.
sur que le dit Leonard Vowe enter & fist le lease prout &c. et
si sur tout le matter auant dit les dits letters patents fait
al dit John Farnham fuet sufficient in ley a passe le dit mese
&c. donques ils trouont pur le defendant, & si non, donques
pur le plaintiff, et assesse damages & costs. Et in cest case sur
argument fait al barre & al banch 4. points fueront resolute:
primement que les dits letters patents de anno 17. Reginæ
Eliz. fuet boide in ley, pur ceo que ils fuet in nature dun re-
stitution, & le suggestion del dit Leonard Vowe recite in le
dit patent que il fuit procheine heire del corps del dit Margaret
Mitton fuit faux, & comment que ces fuit forsque matter
in fait, vnoce pur ceo que fuit le principal motiu del dit
graunt in nature dun restitution, & le entention del roigne
expres in les letters patents fuit que l'entention del graunt
del dit roy H. 4. prendra effect, quel le dit roigne recitant lez
letters patents del roy H. 4. & le imperfection de eux declare
son intention in ceuz parols, volentes dictam intentionem pre-
dicti regis Henrici 4. effectum capere & non euacuari, que ne poet
estre si le droit heire del corps del dit Margaret ne soit re-
stoze, a cest cause le dit grant del roigne Eliz. de anno 17. fuit
boide: 2. fuit resolute, que le dit clause de qua: quidem &c. fuit
in Judgement del ley le suggestion del patentee, & adde a re-
strain le dit graunt in tiel manner, que si le dit clause de qua:
quidem soit faux (comment que le dit mese soit graunt per cer-
taine nosme, vnoce le graunt est boide: 3. fuit resolute, que
quant les officers del roy per force dascun matter de record
poent auer cy certaine notice des terres ou tenements in ceo
comprise, que ils poient mitter eux in charge al roy, comment
que le record mesme ne soit dascun effect ou validitie in ley,
vnoce in Judgement del ley tiels terres ou tenements ne
vnques serē ditz conceale, car le negligence ou laches des
officers ou ministres le roy ne turnet le roy ou p̄judice in
tiel

tel case : et pur ceo ascum grant ou demise le roydascun terre
 in certeintie desouth le Excheqz seale, ou duist este desouth
 le grand seale, ou desouth le grād seale ou duist este desouth
 le duchie seale, ou desouth le seale del duchie ou del court de
 Augmentations, ou duist este desouth le grand seale, vnoz
 tel terre ne poet est encounter tel record dit conceale ; & pur
 ceo coment que le dit graunt del royd H.4. desouth le duchie
 seale ou duist auer este desouth le graund seale coment que
 riens passa pur ceo , vnoze per reason de ceo le dit manoz
 de Haillangton ne poet vnques en apres estre dit conceale ;
 Mlnt si le royd E.3. ad per les letters patents desouth le grād
 seale demise le manoz de Dale pur vie, ou pur ans, q̄l lease
 fuit boide per reason del misnomer del lessee, ou ascum au-
 ter autiel imperfection, vnoze le dit manoz ne vnques en
 ap̄s poet eē dit conceale : et si ascum parcel des possessions
 del cozone soient in charge in le duchie, ou del duchie in les-
 chequer, ceux ne vnques serē dit conceale : et fuit dit que cest
 parol Conceale fuit parol de nouvel inuention, in temps passe
 nient in bſe ou comus al sages del ley forſque in un brieſe de
 que Stamford Prerog. b. parle, quel bſe est la appell brieſe De
 terris concealatis, & ḡt apres un generall luerie ſue ; mes tel
 brieſe est oze auxy conceale, car nest pas troue in le Register
 originall ou iudicall 4. que nul terre ou tenement dont le royd
 est leille a. coment que soit conceale del royd , ne poet este dit
 in ley subtract ou detein del royd, car le royd ne poet este dissei-
 lle ou deforce dascun terre a. Mes si le tenant le royd soit dissei-
 lle et morut sans heire, oze le droit escheat al royd, & la in he-
 ritie la terre est deteine del royd , mes tel droit ne passera per
 le generall grant del royd del terre. Hill' 38. Eliz. fuit resolue *Hill' 38. reg.*
 p Popham & Anderson chiefe Justices, in le case dun *Shane* *Eli. Shanes*
 misse hoys de Ireland, que le clause de quæ quidem &c. in au- *case*.
 tel letters patents de concealement des terres in Ireland
 amount a un suggestion, & esteant faux, fait le graunt de di-
 uers rectories per certain nosme boide come icy in le 4. point
 appearet. Quant al 3. reason , a fine le finall intention del
 royd per ceur letters patentes fuit a rewarder le ſeruice del pa-
 tentee et nemys a diminuher ascum part del reuenue de ſon
 cozone , mes ſolemment a paſſer ceo que fuit conceale de lui :
 et le opinion de Iune in 9.H.6.fo.28. fuit cite , il home ſue al
 Roy per petition dauer un manoz, & dit in ſon petition que le
 manoz ne vault que x.l. et ad un Patent de melme l manoz,
 et puis est trouve de record q̄ le manoz valloit per annum 40l.
 le

Arthur Legats case

le patent sera repeale, car le royst intend a diminuer son revenue
sue sozque x.l. per annum, et sur le suggestion del patente
il fuit deceive in le value, car per ceo il decreale son revenue
x.l. per annum. Vide 16.E.3.tit' Graunt 54. Quant al 4.rea-
son, le dit clause de quz quidem ad un double conjunctive, ce-
stassauoir, concelata & iniuste detent, & come appiert per le
4.point del dit case de Vowe, terre &c. ne poet estre deteine del
roy, et issint fuit resolute in le dit case de Shanc Hill 38.Reginz
Eliz. ou le case fuit, Le roigne Elizab. per ses letters patentz
graunt desouth le graund seale de Ireland excera scientia,
mero motu, & gratia speciali, al Edmond Barret the Rectorie of
Sroze in the countie of Longford in Ireland (inter alia) parcell
des possessions del iades ptoxy de Loughsendy, Quae omnia
& singula prmissa à nobis & progenitoribus nostris diu antehac
concelata, subtracta, & iniuste detenta fuerint & adhuc sunt, & au-
er à tener al dit Edmond Barret & ses herres. Et fuit re-
solue que cest graunt fuit vvide, pur ceo que le dit clause de
quz quidem fuit in Judgement del ley le suggestion del pa-
tentee, & le dit Rectorie ne poet estre iniustement deteine del
roigne, & les parols sont in le conjunctive, cestassauoir, con-
celata, subtracta, & iniuste detenta, et issint frauncis Shanc
que occupie la dit Rectorie preuaile encounter le dit paen-
tee: & le 2.conjunctive est, & redditus et reuentiones inde, nec
alicuius inde parcellæ antehac respôsa fuerint, issint que ambideux
le conjunctives doient este veray, ou autrement le grant est
vvide.

Quant al 3.point in le principal case, fuit resolute ou le
dit graunt fait a Sir George Howard fuit ex certa scientia,
mero motu, et gratia speciali: Ex certa scientia import que le royst
ad science de chose que il graunt, & pur ceo tel chartre est ap-
pel assertive à nemy suggestion, come est dit in 2. E.3.fol.7.in
John de Bretaines case, mes ceo est destre intend del veritie que
est le proper obiect de science, & nemy de fauxitie que est non
ens, & de ceo le royst ne poet auer science, mes in tel case le royst
nient obstant ceur parols est ousterment deceive in son
graunt, et pur ceo ils ne donerount al patentee aucun ad-
vantage.

Ex mero motu proprement import le honoz et bountie del
roy que reward le patentee pur le merite de son service del
mere motion del royst mesme sanz aucun fuit del partie: & fuit
dit, que ceur parols fuet adde puis l'estatute de 4.H.4.ca.4.
per quel act le royst declare, que il boill abstainer a grant asse-
part

part de ses reuenus, tress, ou gardships si non a ceux queux
ont deservé, & ceux queux suont pur aucun tiel chose servé pu-
nie & nanceroit le chose pur que le suit fuit fait ; puis quel act,
au fine que nappiez que aucun suit fuit fait, ceux parolz fuet
adde, cest assauoir, ex mero motu : et le dit act est intitulé in le
Bolle Brangwyn, que in le Britische language est vn blanke *Brangwyn.*
cornetille, Anglicè a white crowe ; & fuit appelle cornetill, pur ceo
que il fuit souent foitz vocant & acquerant, & blanke, pur ceo
que il ad aulica et candida vestimenta. Ex gratia sua speciali, in
respect del grace & fauour que le roy ad conceue del paten-
tee : Et fuit résolue , que fuit diversitez inter clauses de *Quæ*
quidem &c. car astuns sont que sont adde solement p faire
plus demonstration del certeintie del chose graunt , et as-
tuns queux concernone le title del roy , ou le value del terre
graunt, ou pur faire restraint del graunt le roy come ad este
dit auant : Et additions a faire plus certeintie solement
ne auoidra le graunt le roy dun certaine chose ; come 10.H.
4.fo.2.in Sir John Lestrange's case, est tenus que si le roy p
office troue ad vn mannoz in gard, & graunt le dit mannoz
per certaine nosme in tiel countee, quod quidem manerium nu-
per seilis fuit in manum nostras &c. & in veritie cest mannoz ne
vnques fuit seisse, ceo ne auoidra le grant, car nest materiall
le quel le roy ad seisse ceo ou nemys, & ne fuit adde mes a faire
plus certeintie a ceo que fuit astus certeine devant, et pur
ceo ne auoidra le graunt coment que ceo soit faux : aueter-
ment est dun generall graunt come in le principali case la
fuit.

Assint in Mich.22. & 23. Elizab. vn case inter le countee de *Mich.22.23.*
Rutland et Thomas Markham fuit per maundement del
roigne Eliz. referte al Bromley chancelor D'englitte, Gerrard
Attorney, & Popham Sollicitor, & le case fuit tiel : Le roigne *El.Tho.*
Eliz. graunt a Thomas Markham officium custodis parco-
rum sive bosciorū de Billowe et Birklaed in foresta de Sherewood
in com' Nott', quod quidem officium Henric' nuper Comes Rut-
land' nuper habuit a auer & tener le dit office al dit Thomas
Markham pur termie de son vie , & in veritie le dit Henric
Countee de Rutland ne vnques auoit le dit office, & vncoze
fuit resolute per eux que le grant fuit bone, pur ceo que *Quod*
demonstrandi causa additur rei satis demonstrata frustra fit. Assint
si le roy demise vn mannoz per special nosme , quod quidem
manerium nuper fuit in tenura sive occupatione Iohannis Stile, &
in veritie il ne vnques auoit ceo , vncoze le graunt est bone,
cas

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car in ceulx cases le roy nest deceiué in son title, ne in le value
que il intend a graunter, ne in le restraint que il pur son
profit et sualle intend a faire. Fuit auxy resolute, que la
faute diversitie inter le case del roy, & le case dun subiect,
car un subiect que poet entender son priuate, ne auoidera
son graunt in ceulx ou autres cases esteant faits sur faux
insinuation ou suggestion; mes le roy que in tendre publique
bien auoidera son grant in ceulx cases iure regio, come est dit
in 21.E.3.47. in le Countee de Kents case; & ceo est un haute
& graunt prerogative que le roy ad, que quant il fait aucun
grant sur tiels faux suggestions come est auant dit, ceulx
sont voides in ley, issint quant sur faux insinuations ou pre-
textes il fait aucun graunt come dasun monopoly &c. que in
heretie est in præjudice del roy & del bien publice, le roy iure
regio auoidera tiels graunts, & tiels letters patents serf per
iudgement del ley cancell. Et fuit dit que perpetuities, mo-
nopolies, & patents de concealement furent nées desoutz un un-
fortunate constellation, car cy tost cōe ils auoient este trahe
in question, iudgement tous foits auoiet este done encounē
eux, & nul al aucun temps done pur aucun de eux, & chescun
de eux ad 2. inseperable qualitez, cestassauoir, destre trou-
blesome & fruitles.

Quant al dit case in 29.E.3.8. le case la est, que le roy este-
ant founder del p̄tory de Mountague (que fuit p̄toria aliē)
le roy per cause de guerre de Fraunce seisist le dit p̄tory, & y
son charte grant al Williām Mountague Countee de Sa-
lisbury le pier ladiuowlson de mesme le p̄tory a luy & sez hēez,
et auxy le gard de mesme le p̄tory durat le guerē que tous
les appurtenances & touts les profits que a ceo appetey-
fount auxy intitement come fuit in son maine, & puis le dyc
Countee morust Williām son fits & heire adonq̄s deins age,
a que le roy per un autre chartre graunt omnes aduocationes,
Ecclesiasticas quas pertinent ad prioratum de Mountegue, tenend
usque ad legitimam statem prefati Willielmi, & quas nuper con-
cessimus prefato Comiti Sarū patri, ou la est p̄rise que ladiuowl-
son pertenant al dit p̄tory ne passeret al pier per lez ditz ge-
nerall parols: Et la Grene chiefe Justice dit, certes il semble
que coment que le roy unques nauoit grant lez aduowlsons
al Countee le pier, que per le 2. chartre il s'passeret al dit Williām
Countee le fits per ceulx parols, car instant cōe il grant
&c. a tener tanque a son pleine age, comit q̄ ceo que il die a-
pres (les queux il grant a son pier) soit faux, le graunt est
bone,

bone, mes Norton al econté; issint que le reason de Grene
 fuit, pur ceo que les dits parols de restriction vient apres le
 Habendum, s. apres un pleine & absolute grant auxy, si lopi-
 nion de Grene seré ley, le dit case est hoys del reason & rule del
 case al barre come appiert deuant. Et Mich. Iac. Regis Judge-
 ment fuit done pur le plaintife: sur que le def. porz brieve de
 Error, & ierroz assigne fuit in le point adiudge, quel point
 fuit argue arere al barre & al bench, et Mich. I. regis Iacobi le
 Judgment fuit assurme per toram curiam, pur le causes & rea-
 son report deuant. Nota Lecteur que Hill regina Elizabeth.
 Un information fuit exhibite in banke le Roy vers Hugh
 Vaughan pur intrusion in le scite del iades priorie de Fry-
 ers Preachers in Langley Regis in le countie de Hereford,
 et sur tien culp, pleade les Jurors donont un special verdit
 a cest effect: Rich. prior del dit iades priorie an. 38. H. 8. oue le
 cōsent del couent, pur lour fait in tolle surrend et graunt al
 Hen. 8. ses heires & successoress touts lour possessions &c. pur
 force de que et del act de 31. H. 8. le roy fuit leisie del dit scite,
 & 7. Februar. anno 31. H. 8. demise ceo pur nosme del scite del
 dit iades priorie al suffragan de Dover pur son vie absque aliquo
 inde reddendo, et puis le dit suffragan moys, et le scite
 pur meane discents descend al rogne Elizab. et puis 27. Junij
 anno 8. Elizab. Cōmission fuit direct desouth leschequer le ale
 a William Cooke armig et autres, donant a eux Authoritie
 a surueier le dit scite (inter alia) et a certifier in leschequer in
 quel reparation ceo fuit, et quel lead, stone, et Iron fuet re-
 quisite a repaire ceo; queur Cōmissioners le 3. iour de Sep-
 tember ensuant pur force del dit Cōmission certifiee in script
 desouth lour seales (inter alia) qfuit un ancient esglise app-
 tecinat al dit iades priorie qfuit in grād ruine & decay, et fuit
 cou oue lead qf lead valiust 33. l. 6. s. 8. d. & le timber et stones
 fuit de petit value &c. puis qf Certificat, leade timber & stōes
 fuet vendue pur le treasurer et bnder treasurer del eschequer
 anno 9. Eliz. a un Webster pur 33. l. 6. s. 8. d. que in court del
 eschequer conust le det: Et puis le dit rogne Eliz. 9. Aprilis
 anno regni sui 16. pur les letters patents ex certa scientia, mero
 motu, & gratia nostra speciali, graunta le dit scite del dit iades
 priorie inter auters al Edward Grimston le plet et Edward
 son fils et lour heires desouth test Pruiso semper quod si pre-
 dicta premissa aut aliqua inde parcella, aut redditus aut proficia e-
 orundem non sunt nec fuerunt ante 10. diem Aprilis anno regni
 nostri 14. a nobis nec a patre fratre, nec sorore nostris cōcelat, sub-
 tracta,

Hil. 36. reg.
Eliz. Hugh
Vaughans
case in bāke
le Roy.

Arthur Legats case.

tracta, vel iniuste detenta, & sic concelat' subtract', vel iniuste de-
tent' remanserunt usque predictum 10. diem Aprilis an' 14. supra-
dicto, quo die pred' Edwardus & Edwardus &c. suis proprijs sup-
tibus & expensis ad reuelationem inde fieri procurauerunt, quod
tunc ha literæ patentes quoad huiusmodi parcellam sic non coce-
lata m. subtractam, vel iniuste detentam vacua erunt. Et troue ou-
ster, que le roigne ne vnques pris ascun profit del dit scite
foysque del dit esglise come est auantdit. Et si ic. Et fuit ob-
iect, que le dit scite passeret per les dits letters patent's pur
ceo que coment que serra admit que le cite mesme ne poet e-
ste dit estre conceale in cest case, & coment que le dit scite ne
poet estre dit subtract ou iniustement detent, vnoce intant
que les rents & profits de ceo fuerent subtract, et iniustement de-
tent del roigne, & les parolz sont in le deslunctine, aut redditus
aut proficua corundem &c. a cest cause les dits letters pa-
tent's fueront sufficent a passer le dit scite. Auty fuit obiect,
que le dit commission deslouth le Escheker seale, nest pas
ascun tiel autentical record in iudgement del ley a prouer
que le dit cite ne fuit conceale. Mes fuit resolute per totam
curiam, que s le dit speciall matter troue, le dit scite ne passa-
my per les ditz letters patent's. Et in cest case vi. pointz fu-
eront resolute. 1. Que quant la est ascun record per que
le certaintie del terre le roye (que nest pas in charge) issint par-
ticulierment appiert, que les officerz le roye poient mitter ceo
in charge (sauns ascun respect al temps del dit record, issint
que soit apres le title le roye accrue) tiel terre ne vnques poet
este dit conceale: come si home seistie del Manoz de D. in fee
per fait enrolle grant le dit Manoz al Roy H.8. les heirez
& successoiz, & le Roy ou ale de les successoiz puis le dit grant
ne vnques auoient pris ascun rent ou profit de ceo, vnoce
cest manoz ne vnques serf dit conceale: Mais in le case al
barre, quant le roye demise le dit scite del iades priorip al sus-
fragane de Douer pur son vie (coment que riens soit reserue)
cest scite ne vnques serra dit in apres conceale, et sic de simili-
bus. 2. Fuit resolute, que in case del roye coment que vn de son
tort pris les rents ou profits de ses terres, vnoce mesme
les rents ou profits ne poient este dit subtract ou iniustement
detene, car le roye poet charger cestuy que pris les rents ou
profits de ses terres come son baillie pur account render, car
in le case le roye le ley in tiel case fait priuitle: et oue ceo ac-
cord 33. Hen.6.2.& 3. Et quant le terre mesme nest pas con-
ceale les ditz parolz aut redditus aut proficua eorum &c. con-
celata

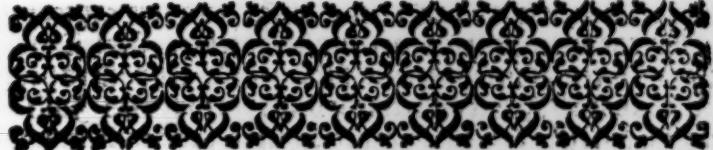
in subuerlion &c.

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celata subtract' vel iniuste detent' &c. ne boilet passer ē car lētētion del Roy, ne fuit a passer riens tozlos ceo q̄ fuit conceale de luy, car autrement per pretence del patentee, si le lessē le Roy ad deteine son rent reserue sur son lease, ceo passera per les dits parols, q̄l fuit ousterment denie per toutes les Justices, car nul tiel streyned construction sera prisē in le grant le Roy, a passer son inheritance enconter le intention del Roy & le suggestion mesme del patentee. 3. fuit resolue come devant in Shanes case, que in mesme le case terre ne poet este dit subtract ou intusment deteine. 4. Que les dits parols ante decimū diem Aprilis anno 14. Eliz. sera in construction del ley prisē pur tout le temps puis le d'arreine title del Roigne, ielque al dit iour, & nemy puc vn moyg ou vn an, ou 2. ans, &c. sur que grand incertaintie ensuera, mes tout temps puis le title le Roy ielque al dit iour serf prisē nient obstant les disfunctiue parols subsequents a nobis, aut a sorore, fratz, vel patre nostris. 5. Que le dit comission desouth leschequer seale & le returnz de ceo fuit sufficienc a instructer les officers le Roy a mitter le scite in charge, & ceo serue pur vn sufficient record a cest purpose, mes office trouve per force dun commision desouth leschequer seale nē sufficienc a intitler le Roy in case dattainder de felony, mortmaine, cessavit, ou semblables : issint nota diversitie inter office de instructio et office de intitling. Darrainment fuit resolue, que instant que le Roigne fuit respond dascun parcel del profits del dit scite, nul part de ceo poet este dit conceale.

V

Mich.



Mich. 10. Iacobi Regis

Robert Pilfolds case.

Robert Pilfold port action de Trespas in
banke le Roy Trinitar' 7. Iacobi Regis Rot.
795. bvs Robert Dawks quare clausum
& domum fregit a S. Olaves in South-
warke in le countie de Surreyn oue con-
tinuando per long temps al damagez del
plaintife de 40. l. le defendant plead nou-
culp zc. quel issue fuit trie pur Nisi prius pur le plaintife &
damagez assesse occasione transgressionis predicta ad 49. l. & pur
costs de suit a xx. s. sur quel verdit le plaintife al tour in bâke
esteant le tour del retourne del Distring' remit 9. l. parcel del
dit 49. l. assesse pur damagez & pria Judgement de 40. l. (a
quel damage il ad count) oue increase de costs & auoit 9. l. de
incremento adde per le court, queux in tout amount a 50. l. &
ad son Judgement accordant : a sur ceo Dawks le defen-
dant port son brieve de Error in leschequer chamber : & in cest
case fuit assigne pur error, que les damagez & costs ensem-
ble amount a pluis que les damagez alledgede in le connt, et
fuit argue fortement q' ceo fuit error, car misa & custagia sont
include deins cest parol damages ; & pur ceo ou lestatute de
8. H. 6. done trebles damages in brieve dentre in action sur
lestatute, ou in assise, la les costs auxy sera treble, & bncore
lestatute done treble damages seulement, mez treble costs soit
include deins cest parol damages : & oue ceo accord 14. H. 6.

Robert Pilfolds case.

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13.19.H.6.32.22.H.6.57.12.E.4.1.Fitzh.N.B.248. Et in 4. & 5.P.& M.159.b. Domingo Bilotat port action sur le case vs un Pointel pur ceo que il sua lui devant l'admiral pur chose fait sur la terre, in quel case lestatute de 2.H.4.cap.1.done al plaintife double damages sans pler dascun costis, & bnoze la il recouer cibien double costis come double damages. Et in 18.E.4.23.lez Juroz poient assester les damages et costis entierement s'ils voient, car damages includont tout 42.E.3. 7. que le plaintife ne recouera plus damages que il mesme ad count & que ceo accord H.7.7.9.Eliz.Dyer 25.b. Et in 13.H.7.16.& 17.in Trespas le plaintife count al damages de 20. marks & lenquest done 22.marks p costis & damages: Brian, cest bone pur 20. marks, mes ils ne donera costis ultra le summe des damages in le count, & alij cōcord: & ceo fuit dit fuit un case in le point, per que fuit conclude que le Judgement a cest cause fuit erronius. ¶ Mes al d'arreine fuit résolue per tousz les Judges del common banke, & barons del Eschequer, que le iudgement sera affirme. Et les reasons a causes de ceo Ieo ay pense necessarie a reporter a large. Et pur ceo, priserment, al common ley devant lestatute de Glouc (que fuit fait anno 6.E.1. cap.1.) home ne recouera damages in ascun real actio, come in Dowcr devant lestatute de Merton cap.1.nec in Aiel,Mordancester, &c. devant le dit statut de Gloucester, mes in actions mixt, come in Assise, Entre in nature dassise &c. ou in personnel action, come trin's quare, clausum fregit, des biens importz &c. 2. Et que in toutz casez ou home recouera damages il recouera costis, que est intend de tousz cases, ou il recouera damages ou devant le dit act de 6. E. 1. ou per mesme lart. 3. In tousz cases ou home, ou devant ou per mesme lestatute ne recouera damages, si puis le dit act un autre statut in nouvel case done damages, ou single, ou double, ou treble, &c. la le plaintife ne recouera costis, car cest act est un act de creation que create et done recompence al plaintife, ou in mesme le case nul recompence fuit done devant. 4. Mes autrement est, dun act de addition, cest a dire, que adde greinder recompence & satisfaction que fuit done devant tel act, car la ou damages et costis fuet done p le common ley, mes lart increase les damages, la le plaintife recouha les damages increase p lestatut et costis auxy: & pur ceo in Quare impedit damages sont done al plaintife p lestatut de W.2.fait in 13.E.1.cap.5.mes nul costis serf la recouer, pur ceo que ceo est act de creation q nouuellement done recompence

V ij

al

Robert Pilfolds case.

al p^r ou nul fuit recoverable devant : & oue ceo accord 27. H. 6. 10. 2. H. 4. 17. 9. H. 6. 66. Mes in action sur lestatute de 2. H. 4. vers testy que sue in l'admiraltie pur chose fait sur le terre, ceo est act de addition, car damages & costs furent in tel case recoverable al common ley : vide pur ceo 8. E. 4. 13. & 14. et lestatute increase les damages au double, & bunc il reconua costs auxy, car lestatute in increasant damages ne tolle les costs. Illint puis a m^r le pliaint al Gloc' an. 6. Ed. 1. ca. 5. acc de wast est done, ou ne fuit tozlos prohibic^s vs ten in dower ic. al common ley & nul damages ser^t recou^r in tenez pur wast fait pur is le phibition deliu^r, & vs ten pur vie, ou pur ans nul phibic^s gis^t, & pur ceo lestat de 6. Ed. 1. c. 5. q^d dos^t treble damages pur wast fait devant le b^re port & le lieu wast, est ley de creation & que dos^t remedie ou ne fuit as^ce devant, et pur ceo la nul costs ser^t recouer : & oue ceo accord 2. H. 4. 17. 9. H. 6. 66. b. & 19. H. 6. 32. & pur ceo les liures in 5. H. 5. 13. & 5. E. 4. 7. sot malem^t report. Mes in Raushm^t de gard, q^d est ley de addition, s^r, que add^t le recoverie del gard m^r ou le value de t, bunc damages & costs ser^t auxy recou^r, pur ceo q^d ac^c gis^t al common ley p^r Raushm^t de gard, in que le p^r recouua les damages et costs : & oue ceo accord 27. H. 6. 10. Illint in acc pur fortable entre interres sur lestatute de 8. H. 6. ou in Assise pur disseisin fait oue force, la le p^r recouua treble damages & les costs auxy, pur ceo que al common ley le p^r recouera damages & costs in ambeux les cases, car cest stat nest forsol act de addition : & oue ceo accord 14. H. 6. 13. 19. H. 6. 32. 22. H. 6. 57. 12. Ed. 4. 1. F.N.B, 248. Mes in Decies tantum, que est ley de creatioⁿ, la le p^r recouera le penaltie done per lestat & nient pluis, car ceo e^t ley de creatioⁿ, 2. H. 4. 17. Illint sur lestatut de 5. E. 6. de Ingros^sers, le p^r ne recouera costs mes soient le penaltie done plestatute, pur ceo q^d le partie nad aucun remedie al common ley, 35. H. 8. cit. Damages 200. Brooke.

5 Est ascauoir, que cest parol damage est prise in la ley in. 2. several significacions, lun p^rp^r et generalit, & laut relatiue & stricte, proprement, come in les cases queux ont este mise sur lestat de 2. H. 4. & 8. H. 6. ou costs sont include deins cest parol, car dampnum in son proper & general signification dicitur a demendo, cum diminutione res deterior fit, & in ce sece costs desutes sont damage al p^r, car per eux res sua diminuitur. Mes q^d le p^r m^ra le tort fait a luy a damage de tel summe, ceo est deste p^rise relative pur le tort que est passe devant le b^re port, & sont assesse occasionne transgressionis predicte,

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ditz, & ne poet extender al cost del suit q sont future & d'auter nature, s. al legal expences, & dont nul certaintie adouques poet este conus. Illint ceux sont 2. Distinct choses, s. damna pro initia illata, & expensa litis, & pur eis en les ditz acts de plainte de 2. H. 4. & 8. H. 6. ils sont pris en lour propre & general signification, & in fauoz del pl q toutz foitz quant il recouer est fanoz in ley, mes in le cas al barre il est pris en sa relative signification, regardant le tort q est passe, & illint ils sont expressement assesse p le Jury, & ceo auxy in fauoz del pl: & fuit bie obserue le disluitie inf plonel actions, & real actions in quz damages sont destre recouer; Car in plonel actions il counterera aux damages, p q il recouer damages soient pur le tort fait devant le brieve port, & recouera nul damages pur aucun chose fait pendant le brieve; mes in real actions le demandant ne vngues considerera aux damages, pur ceo que il est a recouer damages pendant le brieve: & pur ceo est tenus in 33. H. 6. 47. a. en brieve dentre sur disseisin, ou in nature dassise, ou la partie recouera damages, & un brieve est agard denquierer des damages, si le pl recouera damages del temps del disseisin, telz al temps degarder del brieve denquierer des damages, & nemy apres, non obstante q le brieve denquierer ne fuit pas suivie apres 7. ans pass, & issue soit loine triable p verdit, il recouera damages soisq del temps del disseisin, telz al temps del verdit: mes in Principe quod reddat de rent del possession le domini, il recouera les arterages arrete auxy by temps tous temps pendant le brieve come devant, vsq; diem Iudicij redditum, pur ceo que il est son inheritance: & que ceo accord 7. E. 4. 5. vide 13. Aff. pl. 2. 17. Aff. pl. 10. 29. Aff. pl. 59. 31. Aff. pl. 31. 33. 36. Aff. pl. 2. 40. Ed. 3. 24. 7. H. 4. 16. 16. H. 7. 5. a. 6. a.

Et sicome in real actions le dñe ne counterera al damages, pur ceo que est in noncertain a qil sum les damages amountera, pur ceo que il recouera eux pendant le brieve; illint in le cas des costes ils seront recouer pur les expences pendant le brieve, que esteant incertaine ne potent este comprehend in le Count, pur ceo que le Count extend al damages passe & nemy al expences de suit. Et costes ne sont tous foitz include deins cest parol damages; Car si trespass soit port verg 2. def. & lun est troue culpable a per luy, & l'autre culpable a per luy, et damages sont severalement assesse, vnoze les costes sera iointement taxe: que ceo accord 36. H. 6. 13. & 12. E. 4. 1. Et lez litures in 42. E. 3. & 1. H. 7. fuet bien agree destre bonne ley, cest-
fauoir, que le plaintife ne vngues recouer plusoz damages que

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que il ad count cestassauoir, damages pur le tort fait, mes
expense litis poient este addre a ces; & pur ceo 34. Ed. 3. tit. Da-
mages & fuit deny destre ley, s. que m' wast le plaintif declare
aux damages de x. l. & le Jury troue les damages al xx. l.
& ces fuit treble, & le reason la rendue est, pur ceo que le Sieur
de Glouc' puruieu, que le defendant face gree del treble de ces
que le m' wast est taxe, mes lestatute est destre intend des da-
mages loyalmant taxe: Et issint fuit tenus per le Seigni-
eur Dyer Trin' 10. Eliz. in action de Wastport per le Seigni-
eur Abergaueny que les Jurors ne poient valuer le m' wast
pluis q' le plaintif ad alledged in son Count: & que c' accord
Hill' 3. Ed. 4. Rott' 137. Et vncoz in aucun case le plaintif re-
couera pluis damages que il mesme ad Count, come in 8.
H. 6. fol. 5. in Detinue, le plaintif recouera pluis damages q'
il mesme ad count. Et quant al case de 13. H. 7. fol. 16. & 17
quel case ad estre cite hors del abridgement de Brooke, le liure
alarge fuit confess destre bone ley; Car le case, come est la re-
port, est tel: in brieve de Trespas port per Darrel, il Count
aux damages de xx. markes, le defendant plead de rien cul-
pable, & taxeront les damages & costages de son fuit loynta-
ment a xxiiij. markes, lequel est le principall case de mote in
mote, que est clere que le verdit ne poet estoier, car quaunt est
pur damages et quant pur costas ne appiert, et donchz poet est
que ils ouent done griender damages que le plaintif ad count,
issint le verdit in incertaintie: & pur ceo Brian bien dit que in
tel case le pl' ne poet auer Judgement forfiz de xx. marks: do-
ques sont ceo que ensue, nest forfiz le collection du Repozet
issint solonqz son opinion, & des autres les Jurors ne poient
doner costages ouster le summe des damages sur que le pl'
ad Count, quel collection nest garrant per l'opinion de Brian,
car intant que les damages & costes fuet iointement assesse,
le plaintif ne poet auer Judgement forfiz de xx. marks, pur
le incertaintie, comit q' costs poient este done ouster les da-
mages in le Count, Et pur ceo abridgements sont de bone & ne-
cessarie bse a seuer cōtables a trouer les cases in les liurez
alarge ou recordz, & nemy a foundre aſſe opiniō sur abridge-
ment: pur example, le case 45. Ed. 3. fol. 19. 20. ou le case fuit
que terres fuet done al J. de C. one vn Johan le Sot del do-
noz, Habendum eis & heredibus suis imperpetuum, & Fitzh. in a-
bridgement le case tit' Taile 14. dit, que le done fuit adiudice fee
simple & nemy Frankmariage; et Stratamin abridgeant le
case tit' Taile dit, que fuit adiudice que fuit estate in Franck-
mariage,

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mariage, & Brooke tit' Frankmarriage i. Dis. Quare qui à non ad
iudicatur : ideo satius est petere scutum quam se scutum inulos. Note
Lecteur le principal casz acompte en meurtre par le Sount
del banke le Roy, et apes ces 3 jurements faitz a la Cour p toutes
les Justices del common banke de Londres ac est de quez, & le
second remembre la banke le Roy sonnez le lictature

Micro. 10. [scops] M. Regis

Mich.

Chaucer's case



Mich. 10. Jacobi Regis.

Cheyneyes case.

In mesme cestu terme Nichols seriant mouua cest case: Cheney port brieke de valore maritagi, et issae fuit pris le tenure, et devant Justices de Nisi prius in le Countie de Powke fuit troue pur le plaintife, et le Jury assesse 40. s. damages & 10.s. costs, & ne inquire my del value del mariage come ils doient auer fait, & il moua que plaintife poet auer brieke denquierer del value a supplier le defect del ddict, et il cite 2. prezidents, lun Pasch. 3. Jacob. Rot' 745. in Rawishmt de gard port per le seignior Barkly vers Hill, le def. plead non culpable, & le Jury troue luix culpable, & que le heire fuit deing age & marie ac. & assident damna & mis. & ne trouone le value del mariage, & brieke issuist denquierer le value del mariage: & semblable brieke agard Trin' 38. Eliz. Rot' 1703. et in 4. Maria Dyer 135. in Quare impedit port per Poyner, issue fuit troue pur le plaintife, mes per son negligence le Jury ne fuit charge denquierer de quater points, cestassauoir, d plenitudine, ex cuius presentatione, si tempus semestre transierit, & le value del Esglise per annum, la le plaintife poet auer brieke denquierer de ceux pointz, vide 8. Eliz. Dyer 241. 9. El. Dyer 260. Et le cauz fuit souet foiz debate, & al darf. ¶ Fuit resolue q̄ le verdict fuit insufficiet: Car le chief Justice dit, que

Cheyneyscase.

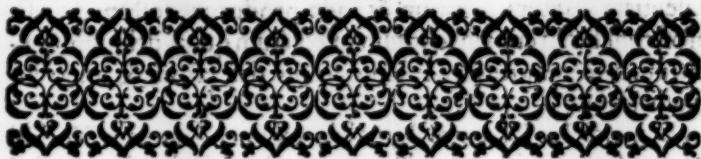
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que in brieve de valore maritagij 3. choses sont desse recouer, cestassauoit, le value del mariage, damages, et costs, quod fuit concessum per totam curiam. ¶ 2. Fuit resolute, que comest que lissue soit in cest case de valore maritagij sur le tenure, vncoze, come sur vn consequent ou dependant sur lissue, le Jury fuit come parcel de lour charge sils trouont pur le plaintife a inquierer del value del mariage, des damages, et costs; et si le Jury assesse excessiue value, ou excessiue damages Attaint gisst de ceo, Et pur ceo in assise, si lissue soit ioyne sur vn release, et vn mediate ouster confesse, la si lissue soit troue pur le plaintife, vncoze come parcel de lour charge les recognitorz del assise inquirent del seisin et disseisin, car ceo est le point del brieve, et sur ceo Attaint gisst: 3. oue ceo accord 11.Hen.4.27.34 H.6.32.b.16.Aff.pl.1.16.Ed.3.Attaint 41.vide 32.Ed.3.tit. Cefauit 25.33.H.6.25. Et in trespass vers 2.lun vient et plead de rien culpable et est trouve culpable, in cest case cest primer inquest assistera damages pur tout le trespass per ambideur defendants; et puis lauter vient et plead non culpable et est trouve culpable, le trouver des damages per le primer inquest a que il ne fuit partie lyera luy, et pur ces sils font outragious et excessiue, le defendant in le darraine inquest auera Attaint: 3. oue ceo accord 44.E.3.fol.7. & F. N. B. 107.E. Illint in trespass de quare clausum fregit, si lissue soit ioyne sur vn feoffement, et le Jury done outragious damages, Attaint gisst, car enquiere des damages est sequet sur lissue et pcel de lour charge. Illint in le case al barre si le Jury ad trouve outragious value ou damages, Attaint gisst de ceo. ¶ 3. Fuit resolute, que le omission in le verdict ne ferra supplie per brieve denquierer de damages, car ceo preuentera le plaintife de son remedie per Attaint, que seroit mischieuous, car donquez tel omission poet este de purpose a depriuer le plaintife de son Attaint. Mes le rule est que quant le court ex officio doit enquierer dasce chose sur q nul Attaint gisst, la le omission de c poet ee supplie par brieve de enquerer des damages (cote in le dit case de Quare impedit de querre ditz 4. points, car de eux nul Attaint gisst, cote est ten in 11.H.4.80. p i q qnt a eux le quest ne forz q de office) mes in tous cases qnt ale point est omissi dont Attaint gisst, la c ne fait supplie par brieve de enquerer des damages sur que nul Attaint gisst, et pur ceo les plaidants queux ouent este cite a tous autres queux sont encounterer ceux rues passant sub

Cheyney's case.

sub silentio fauns aduisement del court et encounterer le rule
de ley; & pur ceo n Detinue ille Jury troue damages & costes,
& nul value come oportet , ceo ne sera supplie per brieve den-
quirer des damages pur le reason auantdit, & pur ceo per le
rule del court nouel Venire facias fust agard,

Mich.



Brownlowe. Trin' 10. Iac^o Regis,
Rotulo. 2413.

Le case del Maior & Burgeses de Linne
Regis, concernant misnomer des cor-
porations.

Tohannes Payne nuper de Catton in Comⁱ p^d *Norff.*
generosus, execut^r testament^r Iohann^s Payne
nuper dict^r Iohannis Paine de Linne Regis in
comitat^r Norff. armiger^r, sum^r fuit ad respon-
dend^r Maiori & Burgensibus de Linne Regis
in comitat^r Norff. de placito quod reddat eis
tres mille libras quas eis iniuste detinet &c.
Et vnde ijdem Maior & Burgenfes per Henricum Bastard attor-
natum suum dic^r, quod cum prædictus Iohannes Payne testator in
vita sua, vicesimo septimo die Ianuarij, anno regni domini regis
nunc Angliae &c. sexto, apud Gaywood per quoddam scriptum
suum obligatorium cōcessisset se teneri eisdem Maiori & Burgen-
sibus in prædict^r tribus mille libris, soluend^r eisdem Maiori & Bur-
gensibus cum inde requisit^r fuisset, prædict^r tamē Iohannes Payne
testator in vita sua, Ac prædictus Iohannes Payne executor post
mortem ipsius Iohannis Payne testatoris, licet sepius requisit^r,
prædictas tres mille libras eisdem Maiori & Burgenibus non red-
diderunt, set ill' eis reddere contradixerunt, ac prædictus Iohan-
nes Payne executor ill' eis adhuc reddere contradic^r ac iniuste de-
tinet

Le case del Maior &c.

tinet, vnde dicit quod deteriorat' sunt. Et dampnum habent ad valentiam centum librarum & inde producunt sextam &c. Et proferunt hic in curiam scriptum prædictum quod debitum prædictum in forma prædicta testatur, cuius dat' est die & anno supradictis &c.

Et prædictus Johannes Payne executor per Thomam Blofield Attorn' suum ven' & defend' vim & iniur' quādo &c. Et dic' quod ipse de debito prædicto virtute scripti prædicti onerari non debet quia dic', quod scriptum illud non est fact. predicti Johannis Paine testatoris, Et de hoc ponit se super patriam, & prædict. Maior & Burgenses similiter: Ideo precept' est Vicecom' quod venire faciat hic a die sancte Trinitatis in tres septimanas duodecim &c. p quos &c. Et qui nec &c. Ad recogn' &c. Quia tam &c. Ad quem diem Iurata inter partes predictas de predicto placito posita fuit inde inter eas in respectum hic usque ad hunc diem, scilicet in Octabas Sancti Michaelis tunc proxim sequen', Nisi Iustic' domini Regis ad affisas in comitat' prædict' capiend' assign' per formam statuti &c. die lunæ vicecelimo septimo die Iulij proxim. præterito, apud Castrum Norwic. in comitat. prædict. prius venissent, Et modo hic ad hunc diem ven' tam prædict. Maior & Burgenses, quam prædictus Johannes Payne executor per attorn' suos prædictos, Et præfat' Iustic' ad affisas, coram quibus &c. mis. hic recordum suum in hæc verba, Postea die & loco infracontent' coram Edwardo Coke milite, capitali Iustic' domini Regis de banco, & Iohanne Croke milite vno Iustic' dicti domini Rcgis ad placita coram ipso rege tenend' assign' Iustic' eiusdem domini Regis ad affisas in comitat. prædict. capiend' assign', per formam statuti &c. ven' tam infranominat. Maior & Burgenses, quam infrascript. Iohannes Payne executor per attorn' suos infracotent', Et iur' Iurat' vnde infra sit mentio exact. fil'iter ven', qui ad veritatem de infracontent' dicend' electi, triati, & iurati, dicunt super sacramentum suum, quod diu ante confectione scripti obligatorij infraspec', dominus Henric' nuper Rex Angliae octauus, septimo die Iulij anno regni sui vicecelimo nono, per literas suas patentes sub magno sigillo suo Anglæ signat', gerent' dat' apud Westmonasterium eisdem die & anno, Ac iur' predictis in evidentijs ostens. recitand' per easdem literas suas patentes, quod cum idem nuper Rex per literas suas patentes quarū dat' fuit vicecelimo septimo die Junij, an. regni sui sexto decimo, de gratia sua speciali, ac ex certa scientia, & mero motu suis, nuper concesserat & per easdem literas suas patentes confirmasset, pro se hæredibus & successoribus suis, Maiori &

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& Burgensibus & inhabitantibus burgi sui de Linne Ep'i in com' suo Norff. quod ipsi imperpetuū essent vnum corpus corporat', & vna cōmunitas perpetua in re et nomine, et qd haberet successionē perpetuā, ac nomen Maioris & Burgensburgi pred' Linne Ep'i in com. Norff. haberent & gererent, Et per idem nomen essent personaē habiles & capaces in lege, ad habend' & p'quirend' terras, tenemēta, bona, & catalla, ac alias possessiones quascūq; ac pl'itare & implacitari, respondere & responderi, defendere & defendi potuissent & valerent, coram quibuscunq; Iustic', siue Iudicibus spiritualibus siue temporalibus in quibuscunq; curijs, ac in oībus & singulis actionibus, caulis, materijs, querelis, & demaund' cuiuscunq; generis forent siue naturæ, eodē modo quo cæteri legei dicti nuper regis, personaē habiles & capaces in lege placitare & implacitari, respondere & responderi, defendere & defendi potuissent, quodque dicit' Maior & Burgenses & eoru successores harent aut habere potuissent vnum cōmune sigillū pro negotijs suis & alijs agend' infra burgum predict' de tempore in tempus, contingē siue emergen' desē: uiens, cū diuersis alijs libertatibus, frāches, concessionibus, articulis, & immunitatibus in eisdem literis suis paten' content' & spec', prout in eisdē literis suis paten' plenius ac manifestius liquebat & apparebat, ac cū postea per quodd' statutū nuper in parliaſt' ipsius nuper regis apud Lond' tent', tertio die Novemb. regni sui viceſſim. prim. & abindē adiorn' vsq; ad Westm. & ibid' tent', & de tēpore illo continuat' per diuersas proagationes vsq; quart' diē Februar. anno regni 27. & tunc & ibidē tent', inter cætera inactitiae fuisse, qd' dicit' nup' rex hæredes & successor' sui reges Angl' haberent, tenerent, & gauderent sibi imperpet' dominia siue maneria de Linne Ep'i, alias dicit' Bishops Linne & Gaywood int' alia cū oībus & singul' suis pertin', Necnon oēs libertat', frāches, bona & catalla, wauiat' & ex trahur', vic', franc' pleg', cur', p̄ficiu' cur', ac omnia & singula alia tēporalia posseſſ. & hæreditament. cum per tin' in Linne Ep'i & Gayw. predict', que nuper ante tunc p̄tinuissent nup' Ep' Norwici, Et que idem nup' Ep' hūiſſet in iure nuper Ep'atus sui p̄dicti, p̄t in eodē actu plenius liquebar, dictus nuper rex Henricus octauus, pro eo quod per eundem actum, huiusmodi maneria & possessiones sibi & hæredibus suis Regibus Angliae annexabantur & fuerunt, voluit & ordinauit, ac per easdem literas suas patentes declarauit, pro se & hæredibus suis, quod eadem villa de Linne Episcopi de cætero imperpetuum nuncuparetur, vocaretur, & nominaretur Linne regis, vulgariter nuncupat' Kings Linne, & non per al' nomen, Et quod huiusmodi nomen de Linne Episcopi alias Bishoppes Linne de cætero

Le case del Maior &c.

cætero destitueret, & depriuaretur, Et vlt̄ dicit̄ nup' rex H. 8. ex gratia sua speciali, & mero motu suis, ac ob amorem quem erga predictos dilectos fideles subditos suos Maiorem, & Burgenses burgi sui de Linne predict' in comitat' suo Norfolk. & burgū illū & Inhabitant' eiusd' habuit & geslit, cupiens in sup' bonā pacis quietem & tranquilitatem in eodem burgō continuē haberi, ac de tēpore in tēpus augmentari, ex quibus omnia prospera, vtilitates, & commoda suum indubitat' capiunt exordium, concessisset, ac per easdem literas suas patentes cōcessit pro se hæredibus & successoribus suis, predict. Maiori, Burgesibus, & Inhabitantibus burgi sui predicti, quod ipsi de cætero imperpetuum nomen Maioris & Burgens. burgi sui de Linne Regis vulgariter nuncupat' Kings Linne in comitatu suo Norff. haberent & gererent, Et per idem nomen vocarentur & nominarentur, Et non per aliud nomen, & quod per idem nomen essent psonæ habiles & capaces in lege ad habend' & perquirend' terras & ten'ta, bona & catalla, & alias possessiones qualcunq; ac pl'itare, & impl'itari, respōdere, & respōderi, defendere, & defendi potuissent & valerent, corā quibuscūque Iustic', siue ludicribus temporalibus, siue spiritualibus in quibuscunq; curijs ac in omnibus & singulis actionibus, causis, materijs, querelis, & demaud' cuiuscunq; generis forent siue naturæ, eodē modo quo cæteri ligei dicti nup' regis personæ habiles, & capaces in lege placitare & implacitari, respondere & responderi, defendere & defendi potuissent, prout, p' eisdem lras patentes Iur' p'd in evidencijs ostensi, int' alia plenius liquet & aparet, Er vlt̄ Iur' p'd dicunt sup' sacr'm suum predict', qđ post confectionē lr'arū patentium p'd, scilicet, predict vicesimo septimo die Ianuarij, anno regni dom. regis nunc Angl' sexto infra script', p'd Iohannes Paine testator in vita sua scriptum obligatorium in narratione infra script' spec' fecit, sigillauit, & vt fact' suum deliberauit prefat' Maiori & Burgesibus burgi dom. regis de Linne regis vulgariter nuncupat' Kings Linne in comitatu suo Norff. in predict' liter' patent' nominat', per nomen Maioris & Burges. de Linne Regis in comitatu Norff. Set utrum super tota materia predicta per ipsos Iur' in forma predicta cōpert' scripti obligator' p'd in narratione infra script' spec' sit fact' p'd Ioh̄is Paine testat' necne, ijdē Iur' penitus ignorat', Et inde per' aduisament' Iustic' & cur' hic &c. Et si sup' tota mater' pred' p' ipsos Iur' in forma p'd cōpt' videbit' Iustic' hic, q' script' p'd in narratione infra script' spec' sit fc'm p'd Io. Paine testat', tunc ijdē Iur' dic' sup' sacramentum suū predictū, quod script' p'd est factum p'd Io. Paine testatoris, Et tunc assid' datnpna p'd Maior' et Burges. occasione detention' debiti infra specificat', vltra mis. & custag. sua per

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per ipsos circa sectam suam in hac parte apposit' ad duodecim denarios. Et pro mis. & custag' illis ad duodecim denar' & si super ipsa materia predicta per ipsos Jur' in forma predicta cōperta videbitur Iustic' hic quod scriptum predictum non sit factum predicti Johūs Paine testatoris, tunc ijdem Jur' dicunt super sacramentum suum quod scriptum predictum non est factum predicti Iohannis Paine testatoris, prout predictus Iohannes Paine executor interius placitando allegauit: Et quia Iustic' hic se aduiseare volunt de & super premissis priusquam iudicium inde reddat, dies dat' est partibus predict' hic usque de audiendo inde iudicio suo, eo quod ijdem Iustic' hic inde nondam &c;

X ij

Mich.

Mich.ii.Iac.Regis,que est en-
ter Tr 10. fa. Roto 2413. in communi
Banco.

**Le cas del Maior & Burgesles de Linne
Regis, concernant misnomer des cor-
porations.**



que lou per Act de Parliament, 4. Februarij anno 27. Henr. 8.
 fuit enact, que le dit Roy les heires & successoys toys Den-
 gliterre aueront lez manoys de Linne Episcopi & Galwood
 inter alia, le dit Roy per mesme les Letters Patents declare,
 quod eadem villa de Linne Episcopi de cetero vocaretur, &
 nominaretur Linne Regis, vulgariter nuncupat Kings Linne, &
 non per aliud nomen, et graunt al dit Maior, Burgenses &
Inhabitants burgi sui prædicti quod ipsi imperpetuum nomen
 Maioris & Burgenium burgi sui de Linne Regis vulgariter in-
 cupat Kings Linne, in Comitatu suo Norff. haberent & gere-
 rent, & per idem nomen vocarentur & nominarentur & non per
 aliud nomen, & quod per idem nomen essent personæ habiles &c
 & les Juroys trouont ouster, que 27. Ianuarij anno regni Re-
 gis Iacobi 6. prædictus Iohannes Paine testator in vita sua prædi-
 ctum scriptum obligatorium fecit, sigillauit, & ut factum suum
 deliberauit præfat Maiori & Burgenibus burgi domini Regis de
 Linne Regis, vulgariter nuncupat Kings Linne in Comitatu
 suo Norff. per nomen Maioris & Burgenium de Linne Regis in
 comitatu Norff. sed vtrum super tota materia, &c. prædictum
 scriptum obligatorium in narratione specificat sit factum predicti
 Iohannis Paine testatoris necnè, jidem Iuratores ignorant, & in-
 de perunt aduisamentum Iusticiariorum & Curie, &c. Et cest
 case fuit souent foits argu al Barre. Et fuit obiect del
 part del Defendant, que le dit Obligation varie del boier
 & droit nosme del Corporacion, & per consequence fuit ny-
 ent le fait le testatour; et le materiall variances fuerount
 pur ceo que ils fuerount incorporate per nomen Maioris et
 Burgenium burgi Domini Regis de Linne Regis &c. & le obli-
 gation fuit fait al eux per nomen Maioris & Burgenium de
 Linne Regis, omittaunt, apres cest parol Burgenium, ceux
 deux parols Burgi Regis, que sount parcel del nosme del
 incorporation: et fuit obserue per eux prîmerement, que le
 nosme del Corporacion est semblable al proper nosme ou
 nosme de Baptisme: 2. apres que le roy ad done a eux lout
 nosme, donques est adde, Et quod per idem nomen vocaren-
 tur &c. 3. parols, negatiue sont adde aux dit parols affir-
 matiue, & non per aliud nomen: mes l'obligation varie
 del proper nosme del Incorporation, & nest fait per idem
 nomen mes per aliud nomen, directement encounter le
 brieue et intention del Chartre le Roy. Et fuit fortement
 prye, que le lieu del Incorporation est del essence dun
 Incorporation, car sauns lieu nul Corporacion poet estre

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foundre, a le lieu est le principall part per que le incorporation poe est conus a distinguishe des autres, a par ceo poe est est spremement ressemble al usage dun home, le quel est le principall part per que il est conus a discerne : a pur ceo bale fuit cite Mich. 29. & 30. Eliz. in Leschequer in Electione

*Mich. 29. et
30. Re. Eli.
Leschequer
de case del
hospitall del
Sauoy.*

firma, in que Maister fait plainte a Paschall a autres descendans dun demile fait per Tho. Fanshalve artemant brancer le roigne de la courte de Leschequer de certaine terres in Denge in le Countie de Essex, a t. a sur rien culp. plead les Justors donont un especiall verdict a cest effect : le Maister a Chapleines de le Sauoy fuet incorporat per nomen Magistri & Capellanorum Hospitalis Henrici nuper regis Angliae septimi de Sauoy, per force de certaine Letters patentes faites Anno 4. H. 8. a le Maister a Chapleines del dit Hospital estant seille in fee del Manoz del Denge in Comte Essex, dounz les terres in queux fuet parcell, Anno 2. E. 6. per fait indent demisone le dit Manoz al John Paschall pur 99. ans, per nomen Magistri Hospitalis Henrici regis Angliae septimi vocari le Sauoy & Capellanorum eiusdem Hospitalis, a il celi lease fuit fait solonque lour voier nosme del corporation fuit le question, a fuit adjuuge in Leschequer que le lease fuit void, pur ceo que ils ont misprise lour nosme del corporation in le plus materiall part de ceo, cest assauoir, in le lieu, car le botez nosme est Hospitalis &c. de Sauoy, a in le demise est Hospitalis &c. vocatur le Sauoy, a le materiall variance, in respect que de signifie le lieu mesme, a vocatur signifie un nosme, que poe este applie al autre lieu, come Prior & Confreres Hospitalis sancti Iohannis de Ierusalem in Anglia, a plusors autres cases come del mount Carmel, Bethleem, a autres, que in verite sont in la terre de Canaan, a bnoce sont applie al certaine lieus in Angleterre, touts queux poies veier devant cite in le case del Hospital del Charter house, a pur ceo le aye omis etz icy. Et fuit dit, que sur le dit Judgement brefe de Error fuit port in Leschequer chamber, ou le case fuit argue avec souent soits al barre, a bnoce le dit Judgement ne bnoques fait reverte. Illint in le case al barre, intaunt que cest parol burgi est omise, que est le lieu del incorporation, cest tel materiall variance que le obligation est voide : Et comment que en dit de Linne Regis, bnoce ceo bien proue que ceo est un ville, mes per ceo nappiere que ceo est un Burgh, car chescun Burgh es un ville, mes chescville nest pas un Burgh. Et pur ceo Litt. lib. 2. cap. 10. de Burgage dit, Et nescanoit que

les ancien villes appelle Burghes sont le plus ancien villes que sone deins Angltere, car tenu villes que sont viles au countees au auncien temps furent Burghes et appelle Burghes, car de teli ancien villes appelle Burghes deignent les Burghesses au parlement quant le royaume ad somme son parliament. Item pur le greinder part teli Burghes ont divers customes a usages queux nont pas autres villes sc. pur que appert manifest diversitie au iudgement del ley int du Burgh a un ville, a l'opinion de Cavendish cheste Justice in 40. A. S. pl. 27. fuit cite, ou il tient que tous les ancien Burghes, sont de record au leschequer et oure Littleton accord 43. E. 3. 32. 2. 21. E. 4. 53 & 54. 2. 1. H. 7. 15. p. Frowike sc. Auter variance fuit obserue, que cest paroll Regis fuit omise, car le boister nosme del corporacion est burgi sui de linne, i. burgi Regis de linne, a in le obligation non seulement Burgi est omis Regis auxy que (come fuit vrge) fuit auxy un material variaunce, car Regis couient este 2. soies adde, cestassauoir, burgi Regis de Linne Regis; a pur ceo le case de Eaton Colledge T. 3. & 4. Ph. et ma. Dier. fol. 150. fuit cite, ou appert que le roy H. 6. incorporeate le dit Colledge per nomen prepositi & Collegij regalis Collegij beate Marie de Eatō iuxta Windsor et in temps E. 6. Sir Thomas Smith Chirurgie esteaunt prouost la, un lease fuit fait per nomen prepositi & sociorum Collegij regalis de Eaton iuxta Windsor, omittant Collegium in le princi lieu, a buncop in le 2. lieu Collegij Regalis fuit adde, et per opinionem omnium Iusticiar' ceo fuit boide lease, et sic adjudicar fuit Mich. 10. & 11. Eliz. Reginz. Illint in le case au barre le omission de cest paroll Regis in le princi lieu, come q' ceo soit obserue in le 2. fait un material variance. Plusors autres cases fuet mise sur le generall ground de misnomes des corporations, queux lez de purpose aye omise, pur ceo q' ceus cases que cy sont mention, fuet le plus material, et toutes lez autres seroient generalment cite oue reference au liure a large in le fine de cest case. Mesme le court tient le dit obligacion bone, q' les plaintives doient auerre Judgement a recouer. In quel case 2. pointes fuet resolute ¶ 1. Quant a ceus parolls per idem nomen & non per aliud, que cest paroll idem ad deux significations, cestassauoir, idem sillabis seu verbis et idem re & sensu, q' ne besoigne que le nosme de corporacion soit in graunes ou conveniances idem sillabis seu verbis, mes suffit si soit idem re et sensu: et accordant a ceus significations divers cases auoient este resolute a adiudice, Mich. 10. & 11.

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Mich. 10.
Eliz. le case
de Deane et
Chapter de
Carlisle.

10. & 11. Eliz. Dier 278. le deane & chapter de Carlisle furent incorporeate an. 33. H. 8. per le nosm de decanus & capitul' eccl'ie Cathedralis sancte & indiuidue Trinitatis Carliensis, & ils font lease p cest nosme decanus eccl'ie Cathedralis sancte Trinitatis in Carlisle & totum capitulum de eccl'ia p d; q'il lease nest pas fait per idem nomen q'est idem sillabis seu verbis, car 1, cest pol individuus est omittit, 2, in Carlisle, ou le voier nosme est Carliensis, 3, de Carlisle, 4, cest parol totu est adde, 4, le ordre des paroiss nest pas obfue, car le voier nosme de corporac est decan' & capitul' eccl'ie Cathedralis sancte & indiuidue Trinit' Carliensis, & le lease est, decanus ecclesia Cathedral' &c. & totum capit' de ecclesia pred': mes hijs non obstant fuit resol' a p Dier, Weston, Welsh, Southcot, Carus, & Harpur que lease fuit assetz boement obstant ceux variances, & le reason est la rendue pur ceo q'ceux variances ne sont pas in le substance del nosme. In Mich. 29. & 30. reg. Eliz. int Hall a Wasingat, in Eiectione firmata in bank le Roy, le case fuit, que le deane & canons de Windsoze furent incorporate p act de pliament in an. 22. E. 4. per cest nosme, The deane & canons of the kings free Chappel of Saint George the Martyr within his castle of Windsor, & in temps del raigne del roy & roigne Phi. & Mary ilz font lease de certaine tres p cest nosme, The deane & canons of the King & queenes free chappell of S. George within the castle of Windsor: Et in cest case 3, variances furent obserue, 1, ou le nosme de corporac fuit placit de 22. Ed. 4. The deane and canons of the kings free chappel, le lease fuit fait p nosme de deane and canons of the king and queenes free chappell &c. 2. ou le incorporati fuit of S. George the Martyr, le lease fuit of S. George omittit le Martyr, le 3. fuit within his castle, & within the Kings castle of Windsor, Et fuit adiudice q' in cest case lun de eux fuit variance in substance, & of the king and queenes free chappell, car le voier nosm del corporac per le dit act de 22. E. 4. fuit of the kings free chappel, & coment q' al temps del seasaung del dit deisme, in veritie le chappel fuit the king and queenes free chappel, vnocon le corporac doit este tiel q'fuit done per le sound, & ne sera alt per le alterac del nosme del sound ou del owner del castle, come si vn colledge soit incorporeate in temps E. 6. per le nosme de Master & fellowes de Kings colledge, ils font lease in le raigne le roigne Eliz. ils ne poient faire lease p le nosme de master & fellowes de Queenes colledge: mes pur les autres 2, variances le court resolute, que ils furent variances in sillables & paroiss & nemys in substace, & parum differunt quare concor-

concordant, car Saint George include le Martir, come le Trinitie imply & include cest adiectiu indiuidue, & deins his castle of Windsore, & deins the castle of Windsore, est tout vn en substance et effect. In quel case le chiefe Justice fuit accoucil que Wingate, & in vn autre auxy in que Wingate fuit plaintife et Judgement fuit done pur luy in ambideux. Hill. 20. Elizabeth. in banke le roy inter Henry Fisher plaintife in Electione firmet William Bois defendant de certaine terres en Eliam in Kent le case fuit; per act de parliament anno 1. Marie vn colledge in Oxford fuit incorpozate per nomen Gardiani & Scholarium domus siue collegij scholarium de Merton in vniuersitate Oxonie, et ils font lease de les ditz terres per nomen custodis domus siue collegij de Merton in Oxonia & Scholarie eiusdem domus: Et in cest case 4. variances furent obserue, 1. pur cest parol Gardianus, custos, 2. ou le boier nosme del college fuit domus siue collegium scholarium de Merton, le lease fuit per nomen domus siue collegij de Merton omittant scholarium, 3. pur in vniuersitate Oxonie le lease fuit in Oxonie, 4. scholaries furent misplaced, car ils veignont in le fine, ou in lart ils sont nosme immediatiment apres le Gardian: Et fuit adiudice que pur le 2. variance ceo fuit vn variance in substance, car le dit act ad baptize le colledge per le nosme del colledge des schollers de Merton, & ils ount fait lease per nosme del colledge de Merton mesme, que in veritie fuit le founder; mes pur Gardianus est Custos, et pur le vniuersite de Oxford & Oxford, ils sont toutvn tressent & substance, et pur ceo nul materiall variances; & pur le misplacing des ditz parols ceo nest materiall dummodo proprius sensus remanet. Et le chiefe Justice fuit accoucil que le dit colledge encounter le dit lease. Moint in le case al batte les ditz variances sont solement in sillabis & verbis et nemy in sensu & re ipsa, & pur ceo sont nient materiall, car per idem nomen sera intendidem sensu & re, et non per aliud i. aliud sensu & re. Et est ascauoir que in le case al batte ceux parols Burgenses de Linne Regis implions que Linne Regis est burgus, car burgus & burgenses sunt conjugata, et cœ. Litt' dit ubi supra de burgess beignount les burgelles &c: et Linne Regis implions auxy que ceo est burgus sius i. Regis, et ceux parols vulgariter nunquam Kings Linne sot include deins ceux parols Linne Regis Moint que le nosme in le obligation per matter apparant in ceo importz assetz certaine demonstration del boier nosme del

Hill. 30. El.
Re. le case
de Merton
Colledge in
Oxford in
Banke le
Roy.

Le case del Maior &c.

incorporation. 5.E.4.20. labbot de Pozke fuit incorporazate per cest nosme, Abbas Monasterij beate Marie Eborum, et un obligation fuit fait al Abbot per cest nosme Abbati monasterie beatae Marie extra muros ciuitatis Ebor', et comment que labbey fuit extra muros ciuitatis Ebor' vncoze pur ceo que in veritie ceo fuit deings Pozke, obligation fuit bone, & pur ceo labbot la poze son briele de Det per son voier nosme, & in son count il dit q̄ le obligation fuit fait al p̄r per nomen &c. que implie in luy auerment que labbey fuit deings Pozke, & le b̄e fuit agard bone briele per lopinion de tout le court, & vnē la fuit plus variance in sillabis & verbis que in le case al barre, mes pur c̄ que in veritie & substance come appiert per auerment de hoys, tout fuit un in effect lobligation fait a eux fuit bone, et vncoze le nosme in le obligation ne impoze de luy mesme le voier nosme del corporazation sans auerment de chors: Et pur ceo in pleadant ou in un especiall verdit, in plusors rales, si per exp̄res auerment ou per trouant del Jurie, sera fait apparant al court que le voier nosme del incorporation et le nosm in le lease, grauntz, &c. sont tout un in effect ceo voet mult insouzer le matter comment que in parols soit asclun semblance de difference; et pur ceo fuit bien trouue in le sp̄cial verdit in le case al barre que le dit John Paine le testator predicte scriptum obligatorium fecit, sigillauit, & ut factum suum deliberauit prefatis Maiori & Burgenibus burgi domini Regis de Linne Regis vulgariter nuncupar Kings Linne in comitatu suo Norff. (que est le nosme del corporazation sanguis asclu manner de variance) per nomen Majoris & Burgensium de Linne Regis in comitatu Norff. que impoze tousz auerments requisiste per la ley, in cest case. Et est bien obserue in Sir Moile Finches case in le 6. part de mes Reports fol. 65. que ielque cest generation de tardiffe temps ne vnques fuit lyé in alcun de nostre liures, que alcun corps politique ou corporazate indeuoiz ou attempt per alcun suice dauoider alcun de lour leases, grauntz, conueiances, ou autres de lour faits demesme, ne dascun autre de grants &c. faits a eux pur le misnom de lour verie nosme de corporazation. Mez apres que un windowe fuit open a donner enz light dauoider lour grants demesme pur le misnomer de eux m̄, qui suis et troubles (dauoid grans &c. cbien faits a eux come per eux) ont ensue sur ceo chescun const: mes la fuit dit que pur chescu curios ou nice misnomer, Dieu defend que lour leases ou grants &c. sera deseare:

car

Le case del Maior &c.

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car boit este un soud de diuersitie inter brieses & graunts; et
in tous cas es ceo est boiser, quod apices Iuris non sunt Iura: car
si brie abate, un poe de common droit auer nouel brie, mes
si ne poe de common droit auer nouel obligation ou nouel
lease, graunt, &c. Et ieo bien approue le liure in 25. Ed. 3. 48.
ou le case fuit, que Prez' quod redd' fuit pozt vers le prior
de Worcester & demaund un mannoz, et le brie voilloit
Principi Priori Wigorniz, &c. le tenaunt dit, que in Worcester il y auoit 1. priories, castellaurore, le priorie des freres
preachers, & priorie de nostre Dame, et le brie fuit a-
bate: issint semble a moy sera reason a multo fortiori a cha-
ser cest que boile auoide un escript, demise, graunt, &c.
fait per un coorzation, ou, a ceo per reason d'ascun verball
ou literall misnomer a monstre que la sont deux coorzations
deins mesme la Cite, Burghe, ou Wille, &c. castella-
urore, un per le boire nosme, et autre per tel nosme come
est conteine in le fait &c. et issint a layser le fait &c. bone per
ou al un de eux; mes quant in veritie la nest que un mesme
coorzation, demises, grauntes, &c. fait per eux ou al eux
ne doient estre auoide per tiels nice & verbal variaunces,
quant in substance le boire nosme del coorzation ou per
matter expresse ou necessariment implie deins les parols
mesme appiert al court. Et quaunt al dit case del Hospital
del Sauoy, boire est que Judgement fuit done in lelchez-
quer per Baron Clarke & Baron Gent encounter l'opinion
de Syr Roger Manwood chiese Baron totis viribus, et ap-
res le brie de Error pozt et le case argu'e al barf, le dit Tho.
Fanshaw compaund oue Palschall pur son leale, & ieo fuy
accoucil oue le dit Thomas Fanshawe. Et semble a moy
que la est petit difference inter le Maior & communaltie del
citle de Lodes, & le Maior & communaltie del citle appelle Lodes,
sinon que poe este monstre que sont 2. distinct coorzations
queux ont ceus 2. distinct nosmes. Auxy est diuersitie
inter ancient coorzations & coorzations faits de tardiffe
temps, car auncient coorzations poient per blage auer di-
uers seuerall nosmes, & dismes, graunto &c. per ascun de
eux sera ass't bone. Et ceus et diuers autres diuersitie
vous troueres in vostre liures ensuauants: Vide le case del
Deane & Chapter de Norwich in le 3. part de mes Reports fol-
73. &c. Plo. Com. inter Croft & Howel fo. 537. 2. Marie Dier 97
& 98. 14. H. 8. 29. 26. H. 8. 1. 11. H. 7. 27. 12. H. 7. 14. 23. H. 7. 14.
14. H. 7.

Le case del Maior &c.

14.H.7.1.16.H.7.1.2.R.3.7.1.E.4.7.4.E.4.8.8.E.4.18.9.E.4.19.
11.E.4.2.15.E.4.1.20.E.4.12.21.E.4.10.21.E.4.55.56.3.H.6.
28.7.H.6.13.19.H.6.64.20.H.6.27.21.H.6.4.26.H. Br'e 161.
35.H.6.5.36.H.6.Br'e 485.12.H.4.19.49.Aff.9.44.E.3.16.35.
38.Edw.3.16,28,33.22.Edw.3.9.8.Edw.3.5.b.& 436.8.Affis.
pl.24.Regist.178.

Mich.



**Mich. ii. Jacobi Regisque est
enter Termino sancti Trinitatis anno 10.
fa. regis rot. 664. in banke le Roy.**

VVilliam Cluns case.

William Clun executor de Anne Breather fuit p^r vers Henry Archer def. & demaund 9. l. Det. & counta q^{ue} le dit Anne Breather 26. Nouemb. anno 3. Ia. Reg. per un Inde- ture de m^e le date, demise al dit Henry un mese, 2. milles, un garden, & diuers ter- res in Coopersale in Essex del feast de S. Mich. larch. adonques darreine passe pur 50. ans si le dit Anne cy longement viuera, Reddendo & soluendo pro oibus p^r premisis prefat Anne Breather executor & assignatis suis an- nuatim & quolibet an^r durante continuacione dimissionis predict^r ad domum mansionalē Iohann' Archer in Witham predict^r ple- nariam summam trint^r & sex librarum bon^r & legalis monet^r Angliæ ad quatuor festa siue terminos in anno vñualia , viz. festa nativitatis domini Iesu Christi, Annuntiationis beatæ Mariæ vir- ginis, nativitatis sancti Iohann' Baptista, & sancti Mich. Archang^r vel infra tresdecim septiman^r, p^r post quem libet p^r dierum festi- ual per æquas & æquales portion^r, p^r forz de q^{ue} le dit Hen. Archer en^r in les dits tenent^r & auoit^r & reignoit eur^r vsq^{ue} ad & post fest^r annuntiationis beatæ Mariæ virginis, an. regni regis nunc 9. s. vsque 2. diem Aprilis anno 9. supradicto, quo quidem 2. die Aprilis p^r Anna apud Coopersale predict^r obiit & pur 9. l. pur le quar- ter due al dit feast del annunciation anno 9. supradicto, il

VVilliam Cluns case.

poz̄ cest action : sur quel count le def. demurre in ly. Et cest case fuit souuent foirs argut al barre, & oze in m̄ cei Terme fuit argut p̄ les Justices Houghton, Dodderidge, Croke et le chiefe Justice, & fuit resolute q̄ l'action de Det ne fuit maine-teinable. Et pur ē que duo sunt instrumēta ad oēs res confirmā-das, et impugnand' ratio & authoitas ; p̄miermt ieo boiller repoz̄ les reasons de cest resoluſ, & dōq̄s diūs authoritiés in le point. Et 3. reasons de cest resolution fuet mēe : 1. pur ē que le disluntive est adde pur le benefite del lessēe, & est plus pur son benefit daū le darraine iour, in quel case sont 2. iours de paun̄t, lun voluntarie & c̄ al election & liberty del lessēe a paier ceo al iours des dits feasts, lauf iour de paun̄t est al fine de 13. semaines ap̄s, & c̄ est le extreme & legal temps, & pur ē instant q̄ le dit Anne Breather morut deuant le extreme & legal tēps, le lessēe est discharge del rent per act de dieu pur m̄ le quarter : Vide Hill & Granges case Plo.Com. 172. 173. le plus extreame temps est le legall temps. Et est ascanoire. q̄ in case de paument de rent issuant hōs del terre sont 4. tēps de paument, le p̄mier temps de paument volontarie & nemy satissactorie, & vñc bone a aucun speciaill purpose, le 2. voluntary & in case satissactorie & in case nemy, le 3. legal & satissactorie absolument, & nemy coercitue, le 4. legal, satissactorie, & coercitue.

Quant in p̄m̄ si le lessēe, donee, ou tenant paia son rent deuant le iour, ceo est volontarie & nemy satissactorie pur le cause rend in le 3. reason : mes si soit paie in nosine de seisin del rent, cont que ceo ne inurera per voy de satisfaction, vñc ceo donera sufficient seisin a cest purpose dauer son Affise ou autre remedie, car le ley ad delectation in donant remedie : & que ceo accord Litt' cap. Attorniſt fol' 127.b. Vide 25.E.3.44 b.49.E.3.15.15.E.3. Execution 63.37.H.6.33.39.H.6.36.5.E.4.2. Quant al 2. si le rent soit paitable al feast de Pasche, si le tenant paia le rent in le matine, & le lessēe morut al 2. heure deuant meredie de m̄ le iour, cest paument fuit volontarie, et vñcoze est bone satisfaction vers le heire, mes nemy vers le roy, 44.Ed.3.3. Quant al 3. le legal temps est conuenient temps deuant le darraine instant del iour, que est le plus extreame temps, et est satissactorie & nemy coercitue, car tan-que le fine del iour nul remedie p̄ ley est done, 21.H.6.40. Quant al 4. reo est quant le rent est due & arere, & pur ceo est bien dit per le Poet. Iudicis officium est ut res, ita tempora rerū querere, quæ sito tempore tutus eris.

Le 2. reason fuit, quant le lessor ne fait païement al p̄mēt tour solonque son election, donques le rent est absolument due al 2. tour, & le 2. tour est cibien pcell del reseruation come le p̄mēt tour, & pur ceo puis le non paymēt al p̄mēt, est oze sur matter rāt in ley, come si ceo ad este reserue al 2. tour solement, car donq̄s tout election est passe, come in 17. Eliza. fo. 344. Il home p̄ son fait graunt vn rent charge al vn & a ses hēritiers ne dit pur lui & ses hēritiers & moysi, oze le temps del election a faire ceo annuitie est passe ; & pur ceo si le grauntee port b̄tefe de Annuity vers le hēire, ceo ne dischargera la terre, pur ceo que quant nul election remain, est tant in ley come si ne vñq̄s aucun election auoit este : & pur c̄ sur les liures in 43. E. 3. tit. Barre 194. 44. E. 3. 32. 15. E. 3. Execuc' 63. 5. Ed. 2. 2. cest case fuit mise, si vn 1. Octob. fait lease pur ans, ou p̄ vie, ou done in tailie, rend p̄ an vn paire de esperons doze al feast de Pâsch, ou 20. g. al feast de S. Mich. larchangel, in cest case si le lessor ne paia les espous al feast de Pâsch, r̄les est due tanq̄ le feast de S. Michael.

Le 3. reason fuit, pur ceo que le rent reserue est desté rāise des profits del terre, & nest due tanq̄ les profits sont pris p̄ le lessor, car ceux parols Reddendo inde ou Reseruando inde, est tant a dire come que le lessor paie tant des issues & parts a tiels iours al lessor, car reddere inde nihil aliud est quam acceptum restituere, seu reddere est quasi retro dare, & redditus dicitur a redeundo, quia retro i. g. al lessor, donor, &c. sicut prouent à proueniendo : & obuentus ab obueniendo: Et ceo est le reason que le rent issint reserue nest pas due ou payable deuant le iour de païement incurre, pur ceo que est desté render & restorer des issues & profits ; & ceo est le cause que si le terre soit evict ou le lease determine deuant le legal temps de païement, nul rent serà paie, car ne vñq̄s serà appoitionment in respect de pt de tēps, cō: serà sur eviction de pt del fre, & pur ceo si teli pur vie fait lease p̄ ans rend rent al feast de Pâsch, & le lessor occupie p̄ 3. quarters del an, & in le datreine quarc deuant le feast de Pâsch, le tenaunt pur vie moysi, icy sera nul appoitionment de rent pur 3. quarters del an, pur ceo que nul rent fuit due tāque le feast de Pâsch, & nul appoitionment sera in respect de temps : mes in mesme le case si part del terre ad este evict deuant le feast de Pâsch, & le feast de Pâsch incurre in le vie del lessor, la sera appoitionmēt del rent mes nemy in respect de temps que bien continue, mes in respect que parcell del terre deuise est evict :

William Cluns case.

Et cest diversite appert in nostre lures 27. E. 3. 84.b. in det
vers executors comtaunt que lour testatorz lui graunt vn
pension de xx. l. a demurer oue lui in le guerre le Roy al
temps que il fuit reasonablement gaty a prendre al 4.
termes du an obwlement, & monstre ouster que il ala oue lui
a Calleys per gachement lour testatorz, & fuit illoques
ame & demand iudgement & pria le det: a que le defendant
dit put le primet quarter il suis pay de v.l. & monstre auant
acquitance, & devant le 2. quarter fine le testatorz morust, &
demand iudgement del action: & Mowbrey accouncie oue le
plaintiffe moue, de puis que vous ne deidis pas le pension
esse grant come vn entier per lan, sur condition que nous a-
udimus performe, & que nous auomus atue oue lui, nous
pridimus le det: mes Wilby chiese Justice, per le rule del
court, agard que le pl prendra riens p son bfe, par ceo que ne
sera apportionnement in respect de parcel de temps, rompt que
ceo eschie p lart de Dieu. Vid' 10.E.4.18.20.H.6.6.9.E.4.1.30
H.8. Apportion B.7. Si ieso sotennis a vous per obligation
de t.c. l. deste pay al 4. bvisualfealz bel an per obwel portions,
le obligee naura action de det devant touz les termes in-
cure; in la ley dun contract: mes si rent soit sur leas p ans
resterue a 4. bvisual rëps del an, le lessor assa acc de det aps le
prush lour, & ne largera tanqz lenthie soit due, pur ceo q est
account in ley tõe reseruation de parcel des tissus & puits bl
kre q nest pas det devant le tour, come in le dit case del obli-
gation du contract: & ceo est le bouter diversite inter le case
del obligac, & rent resterue s leas put ans in Litt' fo. 117.b. Vi.
F.N.B. 267. a nota diversite inter recognizance dun det pay-
able a se fial tourz, car ceo nest séblable al obligac mes al ret
resterue sur leas p ans. Vide 3.Mar' Dyer 103. auf diuersite int
couenant ou pmiss, & contract ou obligac. Vid' 5.Ma.tit. Actio
sur le case Br' 108.10.E.2.tit.Exec' 137.& 16.E.2.ibid.138.Vi.9
E.3.7. Pur authozitez in l point, ieso ay biebo vn report dun
cale Mic. 34. H.8. in rëps de Baldwin chiese Justice del bank,
q fuit lopunis de tousz les Justices, q li hõe seist de tre in fee
1. die Octob. fait lease del dit tre pur 10. ans del feast de S.
Mic. adonqz datterin passe rend a lui & ses héres vn annuel
ret de 20.l. al feast b S. Mich. larchagel ou deins vn mois
aps q in ce case il le lessor morust inf le feast de S. Mich. & l
fine del mois, q le heire auera le rent come incident al reue-
sion, & nemys les executors come rent arere, pur ceo q ne fait
due tanqz le fine del mois.

Mic. 34.B.
S. ca/ e re-
solue per les
Institutio[n]s in
temps de
seignior
Baldwyn.

Desme

Mesme la ley si le lessor inter les ditz 2. iours ad graunt le reversion ouster et le tenaunt attorney, le grauntee auera le rent come incident al reversion. Et Mich. 2. & 3. Phil. et Mar. Prieaux servant moua Mountegue chiefe Justice & les autres Justices del banke, q̄ si hōe fait leas p̄ ang rend vn a-
 nuell rent al feast del Pasche ou vn mois puis que conditi-
 on de reentre, a le lessor tender le rent al darreine instant del
 iour del feast de Pasche, si le lessor poer reenter sur demand
 fait al darreine instat del mois : et semble que nemy, pur ceo
 que le lessor ad libertie a paier ceo adonques : et le diuerdit
 fuit pris inter le dit disiunctive reservation, & quant le re-
 servation est all certaine feast, & condition est adde que si soit
 arere per le space de vn moyx apres le feast, que donques le
 lessor reentra, la le lessor, pur le saluation de son leas, ne poest
 render ceo al darrein instant del feast iour, pur ceo que il nad
 ezel libertie a election come in lauter case. Et fuit dit per les
 nouvel servats, que in temps del seignior Baldwin fuit resolue
 per tous les Justices, que in le dit case del disiunctive reser-
 vation si le lessor morast inter les 2. iours, le heire auera le
 rent, & nemys les executors, quel case le chiefe Justice monstre
 in le court report per vñ auncient & eruditte benchet del Tr. 31. Eliz.
 Temple. Tr. 31. Eliz. in le banke le roay rot. 666. inter Smyth pl.
 et Bustard defendant, ou le case fuit in effect, que Smith le-
 sa certaine tre pur ang rendant annuelment vn rent de 35 £. al
 feasts de S. Michael, & lannuntiac de née Dame, ou deinz
 2. iours apres chescun des ditz feasts, payable al font stone
 in le Esglise d̄ Temple, sur condition que si le dit rent de 35 £.
 ou ascun part de ceo soit arere & nient pay per p̄d spaciū 12. Inſtice Den-
 dierū px. post aliquod pdict' festorū seu dierū solutionis inde pur gliterre.
 supdict' est, q̄ donques le dit lease serre voide : & fuit adiudge,
 q̄ le lessor, in safegard de son lease, auia 12. iours ap̄s les 12.
 iours a paier le dit rent, car q̄nt le rent nest pay al prim iour,
 estant cōe si ceo vist este reserve sur le 12. iour apres & ou est
 dit per predictum spatium 12. dierum post &c. per bone construction
 tous les parolz doient prender effect, s. post aliquod pdictorum festorum seu dierum solutionis inde, et dies solutionis ē
 le 12. iour ap̄s le feast, & pur ceo le lessor auera 12. iours ap̄s l'
 12. iour, q̄ est dies solutionis post festū &c. & ē pur le plus auaille
 del lessor, pur le benefit de que ouster temps fuit done, et ceux
 parolz predictum spatium 12. dierū bien estoient in bone sēce,
 testassauoir, per predictum spatium 12. dierum post predict' 12.
 dies, car ceo est predictum spatium, comment que nad mesme le

*Mich. 2. & 3.
 3. Phil. et Ma-
 case résolue
 int̄p̄s del
 seignior
 Mountegue.*

VVilliam Cluns case.

commencement come lauter ad : & issint le Quere in 3. & 4. P.

Tr' 39. reg.
El. case ad-
judge inter
Pilkington
& Dalton
in temps dol
sennior An-
derson.
Pasch. 40.
El in banke
le roy case
resolute inter
Walgrave et
More in
temps de
Popham
chiefe In-
sice Den-
gisterre.

& Ma. fo. i 42. bien resolute & adiudge. Tr' 49 El. reg. in coi banch
co inter Pilkington & Dalton le case fuit, un parson dun recto-
rie fist leas p ans rend rent al feast d' S. Mich. ou deins un
mois aps, le lessor morust 10. iours aps le feast de S. Mich.
& fuit batte p le iudgement del court, pur ceo q le lessor morust
deuät q le rent fait due. Paschae 40. El. in le bâke le roy le case
fuit, Dame Eliz. Pawlet faides le femme de Chedwiche lessor
Pawlet seise del manfi de Wade in le countie de Southc p
son vie, p fait indent demisa le dit manor al Willia Pawlet
pur 99. ans si le dit Dame Eliz. cy longement vivera, rendian-
nuel rent de C. l. al feastys del S. Mich. larch. & lannuntiac-
de nre Dame, ou deins 40. iours, apres chesc des dits feastys,
Willia Pawlet fist Dulcibel sa fée executrix a morust. Dul-
cibel priest a baron John More esqz. Dame Eliz. Pawlet fist
Edw. Walgrave son executrix a morust le 13. tour aps le feast
de S. Mich. son executrix port acc de Der p le demy an finite al
feast de S. Mich. deuät le moxt le dit Dame Eliz. & tota cur'
contra querenté : mez y intreatie dasi dez Justices Jo. More
dœ al pl 10. l. Et in le case al batte Jugeant fuit done quod
querens nihil capiat per billam.

Mich.



Mich.ii.Jacobi Regis, In Banco Regis.

James Osbornes case.

M

Ich.9.Ia.Regis in cōmuni banco Rot.1427.
James Osboorne generosus port action
sur le case vers Francis Middleton, et
counta que lou le plaintife 14.Februari'an'
quarto regis Iacobi ad achate diuersa bona
& catalla, viz. vnum fulcrum lecti Anglice a
field bedstead with a Testerne and Cur-
teines of Say, vnum Canopium vocat' a canopy for a bed of
Downix, vnum operimentum, vocat' a Ruggge &c. ad valentiam
xj.l pro vndecim libris eidem Frācisco super 28.dic Jun' tūc prox.
sequen' soluend', et declare sur vn assumpsit &c. (sur certain con-
siderations mention en le count) ad deliberand' bona prēdict'
&c. le quel le def. nad fait &c. le def. plead Non assumpsit, et
les Juroz trouoēt pur le plaintife & asselle damages & costes,
sur que le plaintife ad iudgement, & le defendant port brieve
de Error, & assigne pur erroz, et damages fuet intirement
done pur divers choses, & pur aucun de eux nul damages
doient este done, car ou est dit vnū fulcrū lecti Anglice a field
bedstead, pur ceo damages poient este bien done, mes pur
le addition subsequent, & with a Testerne and Curteins of Say,
nul damages duisoient auer este done, car fulcrum lecti ne
include plus que le bedstead mesme, car fulcrum dicitur a ful-
ciendo, quo lectus sustinetur, et quant damages sont intire-
ment done, et pur part nul damages duisoient auer este done
la Iuratores male se gesserunt in assidendo damna, et pur ceo nul
Judgement

James Osbornes case.

Judgement duissoit auer este done in tel case, & ou ceo accord^e cord 9.H.7.3 in Rescous, & 28.H.6.10.b. Et le case in 22.Elez. Dier 370. fuit cite, ou le case fuit, que Clifford port brieve de Electione custodie terre et heredis &c. & count accord^e, & issue fuit prise sur le trauers de le tenure, que fuit trie per Nisi prius pro querente, et damages assesse generalment, et in arrest. De Judgement fuit dit, que action ne gist pro custodia haereditis, sed pro custodia terra tantum, & pur ceo in le case supra, damages fuet intirement assesse pur le ejectment del terre et heire, le plaintife relinquish les damages, & p^ria iudgement del ejectment de terre tantum. Et tous ceul^e cases fueront bien agree per le court: & ouster in proofe de ceo 2. Judgements fuet cite, le pruner in Mich. 14. & 15. Eliz. in banke le ro^y, in trn's p^r Poley vers Osbourne de son close Debryse & de son servant batus (et ne dit per quod seruiciu^m &c. amisit) le defendant plead non culp, et le Jurie luy troue culp, generalment, & assesse damages auxy generalment, & in arrest de Judgement fuit moue, pur ceo que damages fueront intirement done, ou per la ley nul damages duissoient auer este d^ec^e al plaintife pur le batterie de son servant, sⁱquon que auoit e^t alledged que per reason del batterie il ad perde son service, car autrement le servant auera laction & nem^y le maister, & que fuit r^unde per le councell del plaintife, que ser^e intend que le court (que doit direct les Juroz in pointz del ley) auoit d^ec^e direction al Juroz, pur quant ils solonque le ley assessera damages, & pur ceo ser^e intend in le case al barre que les Juroz ouent done damages solement pur le close Debryse & nem^y pur le batterie del servant, intaut que pur ceo (come le dit case fuit) nul damages duissoient auer este assesse; & ceo ils ressemblent al common case, si home port action sur le case vers lauter pur slauderous parols (exempli gratia) pur ceux Thou art an arrant knaue, a cosoner and a traitor, le defendant pleade non culp, & les Juroz trouont pur le plaintife et assesse damages generalment, ceo est bien fait, car ser^e intend que le court direct les Juroz a doner damages solement p^r parols actionable, cestassauoir, thou art a traitor, & nem^y pur les autres parols pur queux nul action gist. Mes fuit résolue per le court, qⁱ in le dit case de Poley Juratores in asside do damna male se gesserunt, car quant damages sont entirement assesse, ser^e intende pur tout ceo pur que le plaintife complained, & pur ceo ser^e bone pollicy in tiels cases a direct les Juroz a doner damages pur le chose solement pur que damage-

damages doient per la ley estre done; come s'il mesme le
 cas le Juroz auoient done damages particularemēt par
 le chose debruse, ceo vst estre bone. Et quant al case de flan-
 derous parols, le court agree mesme le case destre bone ley
 pur deus reasons, 1. que ceo est action sur le case, & pur ceo
 n̄ port bien declare son case come ceo in verity fuit, 2. toutz
 ensemble nest que un scandall, & comment que nul action gist
 pur lez ditz parols Thou art an arrant knave, a cosoner, a plus,
 uncoze esteant parle a un mesme temps & couple oue les au-
 terz parols actionable, ilz aggraument eux: mez si a un tēps
 le defendant appell le plaintife traitor, & al auant tēps il ap-
 pel lui arrant knave & cosoner, & le plaintife port action sur l'
 case, & alledgede les ditz leuerail parols parle a leuerail tēps
 come leuerail causes daction, la si fut rien culp. plead lez
 Juroz asselont damages entièrement. Judgemēt sera ar-
 rest pur tout, car il foundue son actions sur deus leuerail ca-
 dals ou lun nest pas actionable. Auter case fut adiudice in
 banke le roy Mich. 30. & 31. El. regin. mes ceo fut enter Mich.
 28. & 29. El. rot. 476. Et le case fut tel, Moorse port action
 sur le case ds Bedel, & counte quelou Pasc. 22. El. Bedel ad re-
 couer per default in action de Wast & 45.l. damages, puis
 q̄ Judgemēt, testassanoire, ultimo Nouembris anno 24. Eli.
 lis submittron eux mesme al agard de Palmer & Ponier De
 toutz matters adonquez in bariaunce inter eux, in considé-
 ration que le plaintife assume & performēt lour agard & son
 part, le defendant fist reciprocally promise a performēt ceo &
 son part, & que si ne boile faire execution sur le dit Judgeffit
 in l'action de Wast, & puis 10. Decembris ann. 24. les ditz arbi-
 tratorz seoloient arbitramēt in escript a cest effet, ilz agard
 que Moorse patera al Bedel x. l. a certaines iours, & xvi. l. a
 certaine auters iours, & pur payement de xv. l. un milliam
 Halter sera prest a sealer & delivrer xv. obligatiō & ouster liz
 agard, que lou certaine copihold terre del manoz de Lang-
 ley in le countie de Buck. de que le dit Bedel ad fait leasse
 pur ans per Indenture contrarie al custome &c. que le dit
 William Halter pro posse suo sera que nul aduantage sera
 pris de l'forfeiture, & in consideration inde q̄ Bedel dischar-
 gerera Moorse de x. l. parcel del dit 45.l. recouer in le dit
 brieve de Wast: Et que sur le readiness de William Halter
 a sealer & delivrer les ditz xv. obligatiōs, Bedel per son fait
 teleassera al Moorse toutes actions abonques pendaunt &
 toutes demandes telles al xv. iour de Janvain 24 suprad', & que

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que le x. L. fuit pay solonque lagard, & vltimo Octob. 24. Eliz.
william Salter offrir deste tenus in les dits 15. obligati-
ons, & fist son indeuoz proposse suo, quod nullum aduantagiu
caperetur de forisfactura &c. & assigne 2. breaches del agard,
lun que le defendant nads fait le dit release sur request fait,
lauter que il ad due execution sur le dit Judgement per iFieri
fac, & ad leuite 4. L. parcel: le defendant plead Non assump-
tio: & ce issue fuit trone pur le plaintife & o. L. damages doe:
Et in cest case 2. pointz fueront resolue, que solement fuet
moue in banke le roy, lun que coment que les parties ount
este lie per obligation a performe lagard (come in cest case
per mutual promises) vnoce quant a tout ceo que fuit de
fait per william Salter esteant estrang al submission la-
gard fuit void, car ilz ne sont iyes a performe aucun agard,
mes ceo que est deins le submission, & illint fuit adiudice Pasc.
24. Reginz Eli. Rot. 2417. inter Ecclesfield & Maliard in banke
le roy; & que ceo accord 17. E. 4. 5. b. per tous les Justices:
Vide 22. Hen. 6. lopinion al contrary, mes le case est bone ley,
mes malement report, car in action de det sur obligation, le
defendant plead que lobligation est in doyle sur tel condic,
que si le defendant estoit al arbitramet & agard de A. & B.
de toutz querelles & debates penter le plaintife & lui sc. que
donques lobligation perdra son force, & dit que ilz agard q
le defendant paiera al vn Kendal xx. s. quel il lui ad pay,
Judgement sc. Ashton accounzell que le plaintife pris ex-
ception al plea, & ceo q appiert, q cest arbitrement est voide,
illint demur lobligac in force, mes ceo sans question est vn
Non sequitur, car nul arbitrement, ou void arbitrement soit
fait, q est tout vn in ley, lobligation nest pas forfeit, ne lobl-
igee prendra aucun benefit de ceo; & pur e tout que la insuit
est (come a moy semble) misprise p le Reporter, c'e opinion
nient peiment al case in question: Vide 28. H. 6. 13. 8. E. 4. 22. 19.
E. 4. 1. 21. E. 4. 75.

2. Coment que plusors choses sont agard deste fait in
satisfaction dun autre (come cest case fuit) & alcuns sont
deins le submission, & alcuns dehoz, & illint void; & coment
que tous fuet intend per les Arbitratorz deste vn plenary
& intire recompence, pur choses que lauter ferra in consid-
eration de ceo, nient obstant, si aucun chose deste done ou fait
al partie, coment que soit de petite value, soit deins le sub-
mission, lagard est bone, coment que appiert que per lente-
tion des arbitratorz que ces que est deins le submission, sag
leg.

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les auters ne fait plenarie satisfaction pur le chose desté fait per lauter partie, sur q̄ iudgement fuit done pur le plaintife : & sur ceo les dits executoz de Bedell poꝝ b̄e derror sur le nouvel statute ; & les dits exceptiōs moue in arrest de Judgement fuet moue acere in banke le roy , & les Justices del cōmon banke et Barons del Eschequer accord q̄nt at eux oue les Judges del banke le roy : et donques vn autre erroz apparant in le record fuit assigne que ne fuit moue in le banke le roy, et ceo fuit que la fuet deut breeches assigne p̄ le p̄, lun de refusel a faire le dit release, & lauter le fuer del execution , et q̄nt al release lagard fuit boſde , & per consequence damages esteant entier done, le Judgement done pur ceur damages fuit erronious , & appert q̄ le dit release fuit hors del submission, car le submission fuit de tous choses in variance vltimo Nouemb. 24. Eliz. & lagard fuit que Bedell releſera al Mooze tous demands ielq̄ al 15. iour de July an. 24. Eliz. & le request a faire le dit release fuit anno 26. Eliz. & l'ſtint lun des breeches fuit hors del submission , Encounter que fuit obiect, que boier est quant 2. pointz soient mise in issue, & pur lun nul action ḡst et damages soient entièrement ass. lle, ceo est erronious, pur ceo que ambideux sont directment deing le charge dei Jury come in le dit case del close debzuse et battery de son seruaunt : mes in le dit case inter Moore et Bedell le def, in laction sur case pleade Non assumpſit modo et forma, ic que est ſolement lour charge , & lert intend que le court direck le Jury q̄nt al damages pur cest breech ſolemment que est deins le agard & lassumpſit : & cest case depend longement in aduiseſment ; & apres que le case ad este ſouet foits argue devant eux , & sur conference inter eux mesm̄ fuit resolute per eux tous, que lert intend (ſinon que soit ſpecialment troue) que damages fueront done pur ambideux lez breeches, et oue ceo accord Clifffords case auantdit in 22. Eliz. Dyer, ou lissue fuit toine sur le tenure, & damages alſelle ge-neralment extend cibien al custodie del corps come del terre: et in tant que in le dit case inter Moore & Bedel, lun des breeches fuit hors del submission, come fuit resolute per tous les Justices & Barons, le iudgement done in banke le roy fuit pur cest cause reuerſe.

CMes in le case al barre fuit vnement agree, que le Judgement fuit bien done per les Judges del cōmon banke, et que ceo doit este affirme. Et in cest case ceur diuersitieſ fuet agree: 1. inter lez cases in queux 2. choses ſont directe
mise

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mise in issue, ou oblique inquise per les Jurors, & le casel al
barf, lou nest que vn chose solement, car fulcrum lecti est sole-
ment le chose pur quel damages, sont done, & pur le tesserne
et curteine g nul damages, fuet assesse, car ilz ne sont alledge
positiue sed expositiue, cestassauoir, vnum fulcrum lecti An-
glice, & le exposition extend a pluis que fulcrum lecti signifie,
et pur ceo tout le residue est mere nugation & boide coe chose
nient oio alledge; & per lestatute de 36.Ed.3.cap.15. est pur-
nieu, que tous pleas que sera pledes &c. soient pleds, mēe,
& defendus, & abatus in le langue Englois, & que ilz
seront enter & inrolle in Latin, & que les leys & customes del
dit realme, termes & proces soient tenus et gardus come ilz
sont & oint este auant les heures: ¶ Et fuit resolute que cest
statute quant al primer fuit introductory dun nouvel ley meg
quant a les 2. autres branches, ilz sont declaratiue del an-
cient, car dauncient temps & deuaunt le conquest les origi-
nals briefes, & tous les proces & proceedings sur eux fuit
enter in Latin, & infinite recordz deuaunt cest temps vnozore
extant sont enter in Latin, & vnozore pur le meilleur illustra-
tion del veritis vn fait Anglois, Gallois, ou Duche &c. poet
este enter ou in vn plea, ou special verdit. 41.E.3.16.tit. Briefe
& Abatement de ceo Br' 49. (le liure alarge esteant malement
imprint) In Præcipe quod reddat le brieze fuit Præcipe quod
reddat filio & heire, ou lez hæredi in Latin, & a cest casel le brieze
fuit abate, car come Shard Justice dit in 29.E.3.fo.31. Latin
ē vn lāguage formal de mitter in briefes &c. & Englois est
parolz des layes gentz: et vnozore quant Englois ou fran-
cois est parcel dun nosme, la ceo seront permit in vn brieze, et
pur ceo si le nosme de vn manoz soit A. beside K. il poet de-
mand ceo in vn Præcipe per cest nosme in Englois, car para-
uenent nient obstante le nosme le dit manoz gist in K. & pur ceo
in Præcipe s'il dit in Latin Aiuxta K. donques sans question
si aucun part del manoz extender in K. le brieze abatera: &
oue ceo accord 44.E.3.12. & 29.E.3.31. Illint si le surnosme
dun soit Fitz John, il poet issint este nosme in vn brieze, car si
seront nosme in le brieze Præcipe Willielm filio Iohannis seront bōe
plea adire que son pier ad auter christien nosme, come Ri-
chard &c. issint abatera le brieze; & issint est tenus in 29.E.
3.30.& 31.40.E.3.22.44.E.3.12.& 13.11.Aff.pl.29.11. E.3. E-
stoppel 228.10.E.4.12. Illint ieo ay lye que vn Henry ad a
son surnosme In the Hall, & il port brieze per cest nosme, que
consist de trois parolz Englois, & bene, car son nosme nest

Henricus

James Osbornes case.

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Henricus in aula Vide 29.E.3.2.a. Illint que brevia tam origina-
lia quam iudiciaia patiuntur anglica nomina.

C.2. Fuit resolute, q̄ paroix que passone desouth le nosme
de Latine sont de 4. sozts i. bone Latine allovo per grāma-
rians, i. paroix significant & conus al sages del ley, mes ne-
my allovo per grāmarians ne ayant aucun countenance de
Latine 3. in queux cases mala grāmatica, faulx Latine ou nul
Latin et vñc eyat countenāce de Latine abatet ou destruet &
ou nēy, 4. polx insensible & de nul significatiou, & queux nouē
aucun countenance de Latin sont ousterment reiect; del pri-
mer sozt, sont bone & congrue Latine, & ceo sans question est
deins lestatute de 36.E.3. del 2. sozt sont mēluagium, toftum,
gardinum, brueta, iampna &c. macresimū &c. Ceux, & diūs aufs
de mesme le nature, sont allowable non solement in plea plea-
dant mes in brieles originall auty, car ceux paroix sont co-
nus al ley & al sages de ceo, & tiels auty sont Deins le dit act
de 36.E.3. illint in auters sciēces ceo est frequent, come les
professozs del ciuile ley vsont reprisalia, feuda, lhopa, sollaria, &
mults auters semblables, plusoys foits ils vsont a explā-
eux p̄ anglice &c. come sollaria anglice warhouse: & les phi-
lītians vsont cest barbarous parol brothium soz broth & au-
tiels semblables: del 3. sozt sont faulx Latine ou incongrue
Latine, ceo abatera vn originall briele mes ne ferē aucun iu-
diciall vñc, count, pleading ou judgement vñcious (car faulx
Latin sera en tiels cases amēd (a multo fortiori ceo ne auoi-
dra vn grant ou aucun fait &c. et pur ceo neque faulx La-
tine neque faulx Engloys nauoydra vn grant ou autre fait
quaunt lention des parties appiert: Mich. 3. & 4. Re-
gina Eliz. in Communi banco Rotulo 1350. lobligation fuit in
o. octoginta libris oue condition pur payment de 40. l. et comenc
que cest parol octoginta est minus Latinum vñcōre fuit adiudic
bone obligation de octoginta libris. Nota octingent' est 800.
Illint Mich. 44. & 45. Eliz. Rotulo 1031. in Communi banco lobli-
gation fuit in septungenta libris oue condition pur le payment
de 350. l. & fuit adiudice que ceo septungent' serf prisē pur sep-
tingent' id est 700. l. Illint in 9.H.6.7. obligation de wiginti li-
bris prisē pur viginti libris, & 9.H.7.16. & 2.H. 4. 8. acc' Mich.
11. Iac. Regis in Communi Banco vn bil fuit fait in Engloys, s.
in fewtene pounds que fuit faulx Engloys, & vñcōre adiuge
bone bil de 17. pounds car lentent des parties appiert. Auty
quant la est nul Latin parol pur diuers choses, come pur vn
strop, mes vñfained parol Stapedia, & illint pur heluet, la

Z

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Iames Osbornes case.

est nul Latin pol pur ceo, & pur ceo in test case poët este dit in
count countant 2. ou. 3. virgatas velucti, & in touts tielz cases
ou est nul Latin & vñ est significat & ad contenance de Latin,
est sagement fait, a faire vñ illustration de tiels poëts, de adder
Anglice come le dit case deuant Anglice of veluet, & sic de simi-
libus, comme in le case al barre operimentu Anglice, a rugge, este-
ant nul Latin pol pur vñ Rugg: et ceux sont assay deing le
Dit act de 36.E.3. De 4. loys sont parolz insensiblz &c. cõt in
le case del Replevin Pas. 36. regin. El. int Tho. Gawyn & Sir Ed-
mond Ludlowe, le count fuit de diuis aüs & bles & chateux, et
int eux fuit vitriu & sacr issye ioyne les Jurors assesse dama-
ges intirent pur tous: Et fuit resolute, que si vitriu soit poill
insensibl, & de nul signification donqz damages ne poët ûre
doss pur ceo, mes pur le restde soleffit, mes le Court incline
sozme q ceo ne fait sozqz faux Latin, car vitriu est Latin pur
glasse, & vitriu ad contenance de Latin et assert le count suffi-
fient q il entend ûre pur glasse, & issit quacunq; via data, Gawyn
ad iudgement a recouer. Et puis per tous les Justices in
le case al barre iudgement fuit affirme.

Nota Lecteur, Multa renascentur quæ nunc cecidere, cadentq;
Quæ nunc sunt in honore vocabula &c.

Pasch.



Paschæ 10. Iacobi Regis in com.
muni Banco.

Read & Redmans case.

In Det pozt per 2. executors, lñ fuit summon à leuer, à puis cesty que fuit leuer mortu, à le def. plead ceo in abatemèt del bœ Et fuit resolute que le bœ nabatera en- conf le liure brieftnt report in 38.E.3.f.11. ou le Reporter dit cont', Termino Trin' 16. Regis &c. à 20.E.3.tit' Account 78. les ex- ecutors del countee de Halisbury portont account, à lun fuit summon à leuer, et puis morust, à le brieft fuit abate per a- gard. Mes pur le melieur intelligence del boier reason del ley in cest case à auters semblables, ceux diuersites sont de- stte obserue. Le pñmer est inter brieftes real originali, à bœs reall iudiciale: Car si 2. coparceners portont reall action, à lun est summon à leuer, et puis morust ayant issue ou nul is- sue, le brieft abatera: issint si 2. Joint pozt Ass. ou aux originali reall action à lun est summon à leuer, à cesty que est sum- mon à leuer morust, le brieft abatera, coment que le chose in demaund suruiuera, car home in reall action ne vnques re- couera sur brieft, on faux in parols, ou vnap pur son case, instant que il poet auer brieft boier à apt auxy; ne home re- coueta le moity, ou il poet auer original brieft a recouë tout; à asçfoits p act de Dieu subsequent, les parols del brieft bi- purchase deueignont faut ou vnap pur son case, à in tiels

Read & Redmans case.

cases le briele abatera, ou ceo accord 5. Ed. 3. 3. in briele de
ayel John de Hatton case 38. Ed. 3. 35. b. 37. H. 6. 11. b. 19. R.
2. tit. Briefe 925. vide 38. Ed. 3. 43. Mes si 2. Coparceners porz
Scire facias que est iudicital briele sur fine leuy ac. & lun Co-
parcener est summon et leuer & morust sans issue, le iudicital
briele nabatera my mesme la ley in case de 2. Jointenants:
Mes si cesty Coparcener que morust ad issue, donques le briele
abatera, come est adiudice in 42. Edw. 3. 2. & 8. vide 32. Edw. 3.
tit' Br'e 292. & 12. Ed. 3. iqidem 258. Le 2. diversite est in reals
brieles original, ou cesty que est summon et seu morust, q'est
act de Dieu et per que le briele est abate, & prisell del baron
ou entre in la terre per cesty que est summon & lessi, queux ne
abatent le briele, car ceux sont acts de cesty que est summon
et seu, & le briele per tiels actes (ou nest aucun summong & se-
uerance) deueigne solement abatable: & ou ceo accord 39. Ed.
3. 16. Le 3. diversite est inter actions reall concernant frank-
teneur ou inheritance, come est aueredit sans asse regard al
suruiuoz, & actions mere personnel, ou personnel & in asse ma-
nier mixte ou le realtie, in queux chattels ou choses entree sot
d'e, la si lun p's soit sumnié et seu, le mort de luy (eu le chose
entree suruiue al alter) nabatera le briele: Come in briele de
Gard de corps, 37. H. 6. 11. 38. Ed. 3. 35. 36. &c. vide 50. E. 3. 7. 30.
E. 3. 14. 38. E. 3. 36. 1. H. 5. 12. 9. H. 6. 30. 36. 7. Ed. 3. 364. 17. E. 3.
11. tit' Briefe 665. 38. Ed. 3. 43. vide 17. Ed. 3. 11. F.N.B. 35. H. 3.
5. 4. Quare impedit 71. 10. Elizab. Dyer 279. Et in tel case de
Quare impedit in aucun case le mort de lun des p's ne abate-
ra le briele sans asse leuerance, & ou autrement le p's que suruiue
sera sans remedy ac. come sur plenartie et 6. moys passe,
ou que laps incurget: q'il reason per aduenture bostle recon-
cile tous les liures auaundies, queux prima facie, sera dis-
cordier; et ceo est le reason rendue in asse des dits liures, come
in 38. Edw. 3. 36. 9. Hen. 6. 30. &c. que autrement le tort fait al
plaintife sera dispunie, ou autrement le laps incurget ac. &
aduenture, tel tort trencheroit al disheritance del suruiuoz
a toutz iours, come si 2. purchase un aduowson in fee, & un e-
strange usurpe, & ils porz Quare impedit & les 6. mois passe, et
puis lun de eux morust, si in cest case le briele abatera per act
de Dieu, le suruiuoz sera diherite del dit aduowson a toutz
iours; mes quant ap's le mort del un des p's, le suruiuoz
poet auer nouell briele sans asse prudice a luy, la voulx trouveres
in aucun des dits liures que le briele ad este abate: mes fang
question si lun des p's in Quare impedit soit leuer et morust,

le temps abatans. En briefe de Deneue de Chrestien 3.
coygnac 5. videlicet 39. E.3.tit. Seuerance 24. no. H.6.2. & E.2. tit.
Seuerance 19. Justice de Deneue en la cause d'execu^ction, 5.b.2.tit. Br'e 802.16.Ed.2.tit. Executors 111.3.H.7.1. car
la le det de mande ē intre, & ē suruine. Mes in ceux cassez, si
lors p' moysi fatus furent ames le temps abat. Videlicet R.3.4. vide
37.H.6.16. In 48.E.3.32.2. poys bte de Garr.de Char. a l'is mon-
tost, le bte abat, car c' est temps abat: mes in quid iuris clam. p
2. & l'is de eux moysi, le bte nabbate, car c' est temps abat, 48.
E.3.fo.32. & regularment in tous iudicialees in plonel acc. &
moysi de l'is des p's ne abat le bte, 41.E.3.tit. Execuc' 38.11.
R.2.tit. Br'e 63.8.vide 25.E.3.38.b.& 18.H.6.2. vide 20.E.3. Se-
uerance 17. q' l'umons & la fiance ne gisit in Quid iuris clam. mes
le nonsuit de l'is, & le nonsuit damoiselle, car le t'ne sert mise
d'abat al vn soleil. Aut d'abat en la bte en q' chose alement
chose est deee recouf, & btes in que r'ees est deee recouf, mes sont
a discharg' les p's devant duu burché: Et p' ceo p' p's de Error
le moys de l'is des p's abata le bte, 3.H.7.1.2.R.3.1.2.19.Aff.
pl.7.& 44.E.3.tit. Briefe 584.Q' p's in Audita querela q' est aussi
original, le moys de l'is des p's ou del vn des def. nabbata le bte
2.R.3.1.11.R.2.tit. Br'e 63.8.p' ceo q' si ē a retou niens, mes sole-
mest a discharg' luy sh duu burché à charge. Et a ce cause le non-
suit de l'is ne le nonsuit del auz in Audita querela, mes l'is
l'umon & l'is, 15.E.3.tit. Seuerance 23. Nota Lectore l'umon &
seuerance est tous ditz deuant apparaunce, & nonsuit de l'is
apparaunce, ou le seuerance est sans paces p. 23.E.3.9.26.
Aff.pl.35.

Trin 10. Iacobi in communi ban-
co, quel plea commence Hillar. 7. Iac. Re-
giis Rott 1231.

Richard Smyths case.

Rich. Smith Administrat̄or de Gregorie Backhouse fuit p̄ in Quare impedit vers Thomas Evesq; ð Peterburgh. Thos Abbot, & Hugh Llold clerk, & le b̄t & cont̄ fuit de placit qd' permittat ipsum Rich. presentar idō eam personā ad medietatem Ecclesie de Woodford in com' Northamptonq; vacat & ad suā spectat donationem. Et in cest case, ap̄is plurimos arguim̄ts al barce, & ore in m̄ cest terme al b̄ch, dñis points fuit resolute. ¶ 1. Que nul auera Quare imp. præsentare ad medietatem Ecclesie, mes qñt s̄ont 2. seueral patrois, & 2. Seueral incumbents desglise deins dn̄ ih̄ ville, issint q̄ lun patron ad distinct & separat aduobos̄ dun half del Esglise, & son in-
cumbent ad distinct & separat halfe del part a per luy des
diomes & auters ecclesiasticall profites deins ih̄ le ville, & issit
ad lauf patron & son incumbent mutatis mutandis, & in cē case
la duobson & les glise sont leuer in droit & in possession; mes
quant la nest forsq; bn̄ incumbent, comit que la duobson est
deuide & sefi in seuerall mains, vnoce la ne vnq; serc Quare
imp. præsentare ad medietatem seu tertiam partem Ecclesie,
et le reason de cest diversitie est manifest, car chescun Quare
impedit est in le possession & respect les glise q̄ appent al in-
cumbent, & pur ceo le b̄rie de Quare impedit id est quod per-
mittat ipsum præsentare ad Ecclesiam de W. & y ceo appiert q̄
lestate & quality del Esglise Direct le b̄rie de Quare impedit,
& pur ceo quant les glise nest sefi, mes la nest que bn̄ incum-
bent, bn̄ Esglise, bn̄ Cure, nē possible que in respect del seue-
ralty

talys aduowson q' asz Quare impedit serf port ad medietatem
 &c. Ecclesie, car nest asz moity in l'eglise mez c' est entier, mez
 cest q' plent ad moity ac. in l'aduowson; & pur ceo q'st al co-
 mencent del foundation del eglise vn m' eglise dun mesme
 ville fuit d'vide & seuer in 2. partis, & l'aduowson del vn part
 allot al vn & del autr' pt al autr', & q' serf 2. seignall incubents l's
 devna medietate Ecclesie, & lauf de alia medietate Ecclesie, & l's
 part del ville alia al vn & lauf & lauf, la quant lun patron
 present al moitie del Eglise, & soit disturbe, il bie poit auer
 Quare impedit quod permittat ipsum presentare ad medietatem
 Ecclesie, car in veritie l'encubent nauera forisque le moitie
 del Eglise, & nemy l'entire Eglise, ne l'entire profits del Eglise,
 ne l'entire cure del soules; mes le bie de Droit d'aduow-
 son est port a recouer l'aduowson, & le brieve est Preceipe quod
 reddat aduocationem Ecclesie, & pur c'e stade & qualite de l'ad-
 uowson & nemy del Eglise directera cest brieve, car l'encubent
 del Eglise ne serf temone per cest brieve, car aduocatio appre-
 reine al patron, & Ecclesie al incubent: & pur c'e fait ouster-
 ment demie, q' si consideration soit fait de 3. aduowlong, il'st
 q'tous sont forsq' un incubent & un Eglise in ce cas, co-
 ment que l'aduowlons sont several a present per tozne, bnc
 le Quare impedit serf in tiel casse presentare ad Ecclesiam, car ope
 sur le matter nest forsq' un Eglise & un incubent; vide F.
 N.B. 39. f.g. 5. H. 7. 3. Et fait obiect, q' admittant que in tiel
 special casse come adeste misse, s. ou sont 2. leperat incubents,
 que Quare impedit sera maintenable de medietate Ecclesie,
 vnoce tiel special casse doit este m'e in le count, ou autreme
 ne serf intend, & nul tiel special matr' est alledgede in le cost in
 le casse al bar'e. ¶ A. c'e fait tenu a resolue, q' le count in le cas
 al bar'e fuit sufficier dassertain le court q' ls fuet 2. patro's &
 2 incubents, car le count fuit q' un mil. Thozley fuit seigneur
 de & in manorio de Thorleys in com. pred. ad qd' aduocatio me-
 dietatis Ecclesie pred. &c. pertinuit & adhuc pertinet, in domini-
 to suo ut de feodo &c. & toutes foits vn est dit D'Ee seigneur de ad-
 uocatione medietatis q'st la lot 2. seignall patro's, & il'st tiel Pri-
 sor, in 33. H. 6. 11. b. in sir Ed. Odingse's case: & p' c'in l'cas a bar-
 re, q'st l' p' declare q' mil. Thozley fuit seigneur de aduocatione me-
 dietatis, c' imply 2. seignall patro's & 2. incubents, car la l'aduowson
 & l'eglise lot seiu in det & in possess. 14. H. 6. 15. b. per Newton
 act. Fitzh. Nat. Br. 31. b. In 31. Edw. I. tit. Droit 68. 69. ap-
 priet, que home auera brieve de Droit de medietate aduoca-
 tionis l'on l'aduowson est depart inter deus Coparceners

Richard Smiths case.

John son disturbe p. estrangé; mes brieve de Droit de aduocatione medietatis Ecclesie gisit lou 2. seurial patronus present 2.
Se noll gisong a un Eglise; tēs sont in Alij Eglises 2. plosong
d'auant l'opinij de Riordan 45. E. 3. tit. Fines 41. vide 45. E. 3. 12
vide 17. E. 3. 38. Poinings case. vid' 17. E. 2. Dower 163. brieve de
baumerie 3. partie aduocationis. Vide F.N.B. 33. q̄nt bu person
sue in forisual. Louer h. Domes ayont àt al 4. pt. del valye
de l'Eglise. q̄z plos d'aut p̄ly, cest gisong q̄est illet sue peit aſi
Prohibicō appel indicavit ei ecclesiasticall Judge à al peit, à
dans le patrem ac plos illet p̄buit poit au b̄e de Droit de
aduocatione decimari 3. part Ecclesie Savel 4. ptis. mes certifise
q̄z don p̄leſet de W. 2. c. 5. vers finem. Vide 38. E. 3. 13. 31. H. 6
1. 4. & iſtat de Artic. Cleric. & cōunstatim feoffati F.N.B. 39. E.
vide Doctor & Student c. 25. f. 128. vide 4. E. 3. 27. 29. 7. E. 3. 42. 8.
E. 3. 49. 9. E. 3. 42. 2. H. 7. 12. 12. E. 4. 13. Vi. Registr. 29. b. Pricip
q̄d redd' aduocation' medietat' Eccle. de h. vel 3. partis. et F.N.B.
39. 3. E. 1. tit. Droit 68. 69. 22. Af. pl. 33. au lat 3. plosong dun Eglise
à un in Quare impedit Declarare presentar ad medietate ou
fū ad 3. partē le b̄e abatera. si que q̄ in tel special case, Quare
imp' gisit present' ad medietate ou 3. ptē. 7. E. 3. 327. 8. E. 3. 424.
33. E. 3. Quare imp. 169. 14. H. 6. 15. 5. H. 7. 8. à ope ceo accord
liure de Entres f. 477. tit. Quare impedit divisione Portion' Mich.
22. H. 6. Rot' 469. b̄e de Quare imp. fuit presentare ad 2. partes
Ecclesie. Vid' 6. E. 6. 78. Dyer le seignior Windors case. Et fuit
objest, q̄ ne fuit aſe b̄e in le Registre d'alc Quare imp. præsen-
tare ad medietat' seu 3. partē Ecclesie, mes soleint ad Ecclesiā:
Cil eut rāde & resolute, q̄ q̄nt le Registre don b̄e pur tentire,
ceo q̄t allers garrant a poer ceo dascum pt si le case boile ē
garrant, à le darreine pt del opinion del Prisot in 33. H. 6. f. 11.
fuit denys, q̄ q̄nt sont 2. Patronus & 2. Incumbents dun in
Eglise, illet q̄ lesq̄lise n̄ est divide in moities, q̄ la Quare im-
ped' ne gisit a plenē al moity, car reason a mults authoritez
in ley sont inconc ceo, cōe appert devant: mes fée a moy, q̄
in tel case le Patrō de aduocatione medietatis poit au Quare
imp. præsentare ad Ecclesiam, car sur le mark, q̄nt a luy, ē est un
Eglise, & issint le p̄e poer auer (cōe moy fée) b̄e in l'uborne
ou l'aut: à ope è accord Windors case in le 5. part de mes Re-
ports f. 102. ou le Caunt fuit de aduocation' 3. partis, à b̄n le b̄e
fuit ad Eccles. à temps ad 3. partem. Et issint vous mieux ten-
der le reſol de b̄e liures, a p̄c attainer al boire sence & judg-
me del ley. Et puis iudgant fuit done q̄ le b̄iese fuit bon & le
defende a responder ouster, q̄ issint il fist. Vide Trin' 14. Eliz.
Rot'

Richard Smiths case.

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Rot' 1060. Pasch' 37. Eliz. Rot' 1226. S. Thomas Stanhops case,
Pasch' 41. Eliz. Rot' 836. le case del Esglisē de Darsfield, outiel
briefe de Quare impedit come cesty est in le p̄ncipall case, s.
quod permittat præsentare idoneam personam ad medietatem
Ecclesiaz de Darsfield fuit, sur demur et à soleinne argument,
ad iudice maintenable,

¶ Cases



30 Cases sur les Com- missions de Sewers.

Paschæ 7. Iacobi Regis.

Case de Molin de Chester sur la riuiere
de Dee.

VN Causey ou miliastâk de pierre in la riuue
de Dee à citie de Chester devant le raigne
le Roy E. I. fuit fait et erect pur le necessa-
ry maintenance de certaine milles, aletus
del roy, auters des subiects, queux estoient
al fine del dit Lawsey, à oze tard un étain
decree fuit fait per certaine Commissioners
de Sewers pur un breamach desté fait per 10. veirges in lðgi-
tude in le dit Lawsey, qil Lawsey (come fuit admit per am-
bideux parties) fuit erect devant le raigne le Roy E. I. et issit
ad continue ieloz a cest tour sans asc exaltation ou inhansen-
ment; & si per asc decree des Commissioners p force del astu-
stat, asc breamach poët este fait in cest Lawsey, fuit le qstion:
que fuit referre per les letters del seigniorz del princié Coun-
cel

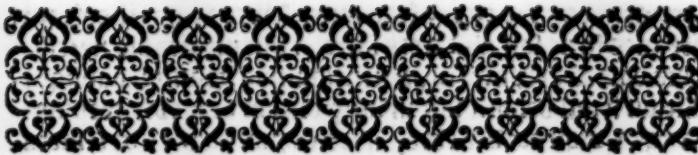
cell anz 2, chiese Just. & chiese baron : & s over del conseil &
 rudité a diuz lestat tourz, & boſſi conſiderac ewe in le temps de
 darcene bacatiō de toutz les ſtat conuenat ſewers, & ſe con-
 ference ewe enſ eux mesmeſ, fuit resolute cōe enſuit. ¶ 1. Da
 iſt prieu p leſtak d Magna Charta, Qd omnes Kidelli depoñant
 de cetero penius p Thameſi, & Medeweſyā, & per totā Angliā,
 niſi per coſteram maris, fuit resolute, q̄ ceſ ſtat extēnd ſolent al
 Kidelli, i. ouer weres, put prieſel de piſſons: meſ le priu ſtat
 q̄ extēnd al pſtrating ou abating vāſe molins, miſtakess,
 & caſwyeſ, fuit leſtak d 25. E. 3. c. 4. q̄l act appoint tiels ſolent
 deſte p leſtak ou abate queſ ſuet leuy ou eret in le rogne le
 roy E. 1. ou apz: meſ y leſtak fait an. 1. H. 4. c. 12. Et cōplaint
 in plaiſit de grand damages queſ ont eſchié p le outragous
 inhaſion de milis, miſtakess, & auſs impedimentz faits & e-
 rect deuāt le rogne le roy E. 1. les diſt aſciſt milis & miſtakess
 ſuet appoint p act adōq̄z fait deſ ſuey, & tielz queſ ſuet troué
 mult inhaſe oſe correct & amend, ſauat toutz ſoit ſe reaſo-
 nable lubſtace de tiels milis, miſtakess, weres, &c, illi in an-
 tient temz faitz & leuy: nul de queſ actz extēnd a le caſe in q̄
 ſtio, car ce caſwyeſ &c. fuit crect deuāt le rogne le Roſ E. 1. & ne
 vnoq̄ exalt ou inhaſe puſ le eretio de c̄: & leſtak de 12. E. 4. c. 7.
 Pſicme toutz les diſt actz, & p eux le generalty del dit act de
 Magna Charta eſt reſtrain, come p in les actz appiert: Et per
 ſtat de 23. H. 8. c. 5. nul des diſt actz (q̄n̄t al point in q̄ſtio)
 eſ repeal, car prieriſt, in laſt appoint le manu, form, tenor,
 & effect del cōmiſſio de ſewers, p q̄ power & authozity e doſſ
 aux cōmiſſioners a ſueier Malles &c. ſewers, caſwyeſ, &c.
 molins, &c. & enq̄ a corref, repairer, amender, put downe or
 reſorme, as caſe ſhal require, according to their wiſdomes & diſ-
 cretions; And therein as wel to ordaine and do after the forme,
 te-
 nor, & effect of all & ſingular the ſtatutes & Ordinances made be-
 fore the firſt of March an. 23. H. 8. as alſo to enquire by the oathes
 of honeſt & lawfull men &c. through whose default the ſaid hurts
 & damages haue happened &c. p q̄ appiert q̄ le diſcretion deſ
 cōmiſſioners fuit limit, g. a. pced ſoloq̄z leſtak & ordinances de-
 uāt faitz, & doq̄z toutz les clauseſ ſubſequēts, And alſo to re-
 forme, repairer, & amend the ſaid wals &c. p force de ce pol (ſaid)
 ad relac al pced prieu d act, And further to reſorme, amend,
 proſtrate & ouerthrow all ſuch milis, &c. & other impediments &
 annoyances (aforeſaid) as ſhalbe found by foundation or by your
 ſuruey & diſcretion to be excessiue & hurtful; q̄l pol aforeſaid, re-
 ferreſ ce clause auxy al pced prieu, g. tiels impediments et
 annoyances come ſot enconſt les ſtat & ordinances deuāt fait:

Auxy

Casé de Chester Molin.

Auxy est ouster purueu p'm l'act, That all and euery estatute, act, and ordinance heretofore made, concerning the premisses or any of them, not being contrary to this present act nor heretofore repealed shall from henceforth stand and be good & effectual for euer : mes les ditz actz de 25.E.3.31.H.4 ne sont contray al ast clause de cest act ne suez repeale deuant ; Et toutes foiz tiel construction doit este fait q vn p' del act poit accord oue auters & toutes a estoier ensemble : Et sils auoient ented da- uer repeale les ditz former actz, ilz ne boilloit auer eux re- peale per tiels general & doubtful parols & cernat cawseyz, milstankez, et molins, qfit eux concernont le inheritance de plusozs subiectz. Et accordant a cest resolution nous certe- dom⁹ les seigniorz del Councel que les ditz statutes de 25. Ed. 3.31.H.4 remayne vncoze in force, & q la uthoritie done p le commissio de Heverg nextend al mills, milstankez, caw- seyz &c. erect deuant le raigne le roy E.1. Nonon que sils ouue este inhaunce & exalt ouster lour former altitude, & per ceo fait pluis prejudicialez ; In quel case ilz ne sont destre p'strate ou subuert, mes destre reforme per abatement del excisse et enhauncement solement,

Mich:



Mich. 7. Jacobi Regis, in com-
muni banco.

Keighleys case.

Nomelane cestuy Terme , sur evidence a
vn Jury de Essex en le case dun Keigh-
ley C fuit resolute per totam curiam de
communi banco ; que si vn que est tenus
per prescription a reparier vn mure con-
tra fluxum maris & gard le mure in bone
reparation , et de tel altitude & cy suf-
ficient come fuit accustomed , et ple lodeine et vnusual cre-
taine del ewe , ou salee ou dulce , les mures sont disrupt ou
le ewe overflowe les mures , que in cest case les commissio-
ners de se werg couient taxer tous tiels plons queux teig-
nont ascun terres ou tenements , ou common de pasture , ou
profit de fishing , ou adou poer auer ascun perde , damage ,
ou disaduantage per ascun maner de meanes in mi les lieus
solonque le quantitie de lour fres &c . car nul default in cest
case fuit in cei q doit i reparier : i lestatute de 23 . H . 8 . c . 5 . pri-
merment autorise les commissions to enquire by the oathes of the
honest & lawful men &c . through whose default the said hurts or
damages haue happened &c . And who hath or holdeth any lands
or tenements &c . or hath , or may haue any hurt , losse , or disad-
uantage &c . And all those persons and every of them to taxe
&c . que doet issint este intend , que quant vn p prescriptio ou

A a

auter-

Kigheleys case.

autrement doit reparier aucun mure, lewer &c, que il doit ceo faire, mes si ne soit able a ceo faire, & pur ineuitable necessite ceo doit este repaire in preuention dun grandz publicque male, ou si nul default soit in luy p reason de le extraordinaire rage & violence del ewe, q les commissioners de lewers in tielz cases ount power per le dit act a charger touts qut ount ale perde &c. solonqz le quantite de lour terres &c. mes qnt vn est tenus per prescripc ou autrement a reparier vn mure &c. si ascu default soit in luy, & le danger nest ineuitable, mes que il m poet bien reparier &c, les commissioners poent p le voter intention del act charger luy soleint a reparier ceo; & si per son default le daunger deueigne ineuitable, ou que il m nest pas able a reparier ceo, per que come ad este dit touts sont charges &c. chescun de eux poit au action sur le case vers cei que est issint tenus a reparier le mure &c. a recouera lour damages solonque lour perde. In 18.E.2.23. Action sur le case fuit port vers B. & count qm cestuy B. fuit le sieur de certaine terre in B. per reason de que il a les aunc & touts les freres tenu de temps dont &c. ount fait & repaire quant mistier fuit tant des peches del wall de la mere in B. &c. & pur default de repareller &c. le ewe enter & ad surround les terres del pl: le def. trauers le prescription, sur q ilz fuet al issue, & fuit trouue pur le pl: et que fuit default in le wall pur non repareller, p que le pl reconer ses damages, & vte agard al viscount a disstrainer B. a repareller le wall le ou mistier fuit & default. Nota Lecteur, cest Judgement in ac sur le case et le reason de c est p bono publico, car Salus populi est suprema lex, & pur cest part del Judgement in cest action sur le case, que le def. serf distrein a repareller le mure. Et in le case al barf le ley est foudue sur grand reason, car comit que per la ley vn soit tenus a ceo garder & reparier, vne Impotentia excusat legem. Et ceo q vient per lac de Dieu & est issint ineuitable que nul prouidence ou industrie per cestuy que est lie poet este preuenir, ne chargera luy: Et pur ceo, si tenant pur vie ou ans ne repaire vn mure de mier, issint que p son default le terre est surround et deueigne vnprouftable, ceo est wast; mes si la frere soit surround per le extraordinaire rage et violence del mier saung default in luy, ceo nest pas wast, nient plus que si vn mese soit arse per lightening, ou subuert per le rage del vent ou tempest, sauns default del lessie, ceo nest pas wast: Et plus tost grand tides sont occasion p fort vents: Et oue ceo,

ceo, quant al wast, accord l'opinion del court in le common
banke in an' 6. reg. Eliz. in le Report de Justice Dallison,

Et le court ad consideration dun autre clause in le dit act
de 23. H.8.ca.5. And to make & ordaine Statutes, ordinances &c.
after the Lawes & Customes of Romney Marsh in the county of
Kent or otherwise after your owne wisdomes and discretions. C
Et fuit resolute clerment que les seuerall commissioners de
sewers per tout Englitterre ne sont lies a pursuer leyes et
customes de Romney Marsh; mes in case ou aucun parti-
cular lieu deins lour commission auoit tiels leys & customes
come Romney Marsh ad, la ils poient pursuer eux, car con-
suetudo loci est obseruanda. C Darreinement fuit resolute que
ceux parols in in lat testassauoire, according to your wise-
domes and discretions, sont destre entend & entreprete accord-
ing to law and Justice; car chescun Judge ou commissioner
doet ass duos sales, viz. salē sapientia, ne sit insipidus, & salē con-
scientia, ne sit Diabolus: Jury discretion (cōe est bien describe)
est Scire per legem quid sit iustum; & pur ceo les commissionis
de sewers doient pursuer cibien lour commission come le ser-
ment expres en le dit act de 23. H.8. que ils pristeront a ex-
ecuter lour commission en meisme le manner come est la pre-
scribe: Et oue ceo accord le Descriptio de discretion in Rooks
case in le 5. part de mes Reports fol. 100.a. Et fuit bien obserue
que chescun statute, ordinance, et prouision, que est fait
per force del commission de sewers, doit consti sur 4. cau-
ses, 1. le materiall cause, et ceo est le substance, 2. le fo-
mall cause, et ceo est le manner oue congenient circum-
stance, 3. lessicient cause, et ceo est lour authozitie solonque
lour commission, 4. le final cause, et ceo est pro bono publico,
& nunquam pro priuato. Et ou l'opinion de Walmesley Ju-
stice report in Rookes case auantdit fuit, que si owner del terre
fuit per prescription tenuis a repairer le banke del riever, que
vincore sur tel commission agard les commissioners ne doi-
ent charger luy solement due tout, sur conference oue Wal-
mesley & Fleming chiese Justice, Yelverton, Williams et au-
ters Justices, fuit accord per Walmesley mesme & tous les
auters, que le dit resolution sur le diuersitie auantdit fuit
bonne ley: Et Walmesley explane son opinion en Rookes case,
que les commissioners ne doient charger cesty que est tenus
per prescription solement, que il intend ou est nul default
en luy, mes ou est default en luy (car ceo accord oue les pa-
rolos del dit act de 23. Henr.8.) et nul inevitabile necessitie

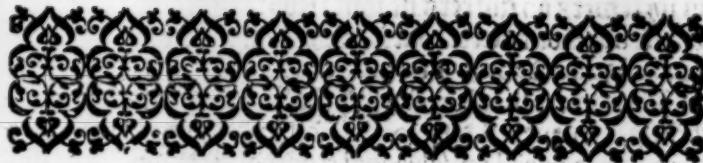
Aij

pur

Kigheleys case.

pur insuffisience ou autrement; mes si il n' poit ceo faire,
la il melme serra solement charge per force del dit commissi-
on: & il dit que son reason rendue en Rookes case implie tāt,
& car autrement poer este que tout le pais serē surround, q̄l
reason purpozt son intention que tous queux auoient ter-
res en danger ne serront charge mes en case de insuffisience
de cestuy que est lie, ou pur autre inevitable necessite.

Mich:



Mich.7.Iacobi Regis.

Case del isle de Elie.



La case fuit referre per les seigniorz del coun-
cel al Coke chiese Justice del banke, Daniel
& Foster Justices del common Banke, con-
cernant vn decret fait per les commissio-
niers de Hewers pur feasant dun nouell
riuer deins le Isle de Elie. Et in effect le case
fuit tiel: les commissioniers de Hewers ount decreté que
vn nouell riuer sera cut out del beiel riuer de Ouse, & per le
maine soile deing mesme le Isle per sept miles ielque al
auter part de mesme le riuer, & pur le fealauns de ois ount
seueralment taxe cibien Fen, Draiton, Hamley, Ouer
Wivelingham, Rampton, Cottenham, & neuf auters villes
deing le countie de Cambridege hors del dit Isle, come les
inhabitants del dit Isle, & le taxe fuit general, cestassauoir,
tant de vn ville, & tant dun auter, et sic de singulis. Et in
cest case deux questions fueront moue: 1. si les commis-
sioniers de Hewers poient per force de lour commission faire
tel nouvel riuer, ou nemy, 2. si tiel generall taxation sur
le ville fuit loyall ou nemy. Quant al p̄mier, est a veier
quel poct este fait per le common ley deuant aucun estatute
ent fait. Et est assauoir que per le common ley deuant
lestature de 6. H. 6. cap. 5. le rooy doit de droit sauver & defen-
der son roialm cibni vers le mere come vers les enemies, que
ois ne serē surround ou degast, et auxy de puid que les sub-
iects event lour passage p̄ le roialme per ponts et chemyns
in safegard: Et pur ceo, si les walles del mier sont enfreint
ou

Casē de iste de Elie.

ou lez sewers ou gutters ne sont escourez q̄ le t̄woe dulces ne
potent auer lour direct course, le rōy deuer faire vn commis-
sion denquis à de oper & terminer ceux defaults, quel com-
mission appiert in le Register inter les commissions de oyer &
terminer, in quel est dit. Nos eo quod ratione dignitatis nostræ
regiæ, ad prouidendum saluationi regni nostri circumquaque su-
mus alicti &c. Et a ceo accoȝd lestatute de 6.H.6.cap. 5. & le-
statute de 23.H.8.cap.5. & quant a ceo Vide vn notable preſi-
dent Pascha 44.E.3. Midd'z coram rege, Præceptū est vicecom'
quod distingat A.B. & alios quod ipsi defectus walliarum erg' ter-
ras suas reparant, & si ipsi ſufficientes non fuerunt, quod distrin'
omnes tenentes terrarum &c. qui defenſionem, commodum, ſal-
uamē, vel damnum ratione reparationis, ſeu non reparationis wal-
liæ p̄adictæ habent, ſeu aliquo modo habere poterint, ita quod
quilibet tenentium predicatorum, iuxta quantitatē tenuræ ſuę
ibidem, contributionem prefatis A. B. & alijs ad wallias illas
faciendas & reparandas faciant indilatè: quel record fuit de-
uant alcun act de parliament que liuit alcun forme del co-
mission. Le i. chose obſervable in le dit commission al comon
ley est cest clause, ad huius wallias, foſſata, gutturas, ſueras, pon-
tes, calceta, & gurgites in locis necessarijs reparand' & quotiescun-
que & vbi neceſſe fuerit de nouo facienda, per que appiert, que
per le commission in le Register al comon ley, que les auncient
mures, gutturs, & sewers poēt ēe repaire ou nouelint fait,
mes nui nouels mures, gutturs, ou sewers per force del dit
commission poēt ēe fait. Donque est a veir in queux cas lez
ſtatutes ount fait puifion in ceux cas: & eſt auſſi autre, que
leſtatute de 6.H.6.cap.5. enlarge le commission q̄ fuit all com-
mon ley, car ou ceulz parolz (de nouo facienda) referrre ſolem̄
al auncient mures, gutturs, sewers, &c. le dit act ad ceulz pa-
rolz, & eadem & alia quotiescunque & vbi neceſſe fuerit de nouo
facienda, queur prols (& alia) eſteant addé al foſſi commission,
donont aux commissioners poþver a faire nouels mures, gut-
turs, sewers, &c. mes cest act ne endure poſisque pur 10. anz,
et per 18.H.6.c.10. autiel commission fuit estableſſe pur 10. anz
et p̄ 23.H.6.c. pur 15. ans, & p̄ 12.E.4.cap.6. pur 15. ans, et per
4. Henr. 7. pur 25. ans, & per 6. Henr. 8. cap. 10. pur 10. ans,
et iſque le procheine parliament, et puis leſtatute de
23.Henr.8.cap.5. fuit fait; que recit nul des formeſ act's tōe
les auters fount, mes enact que ſer̄ enapres commission de
sewers according to the manner, tenor, forme, & effect hereaf-
ter ensuing, & reherſe le forme del commission de verbo in

ver-

Casè del isle de Elie.

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verbum; quel coimission omit les dits paroys (& alia) & insue le coimission in cest point que fuit al comon ley, lez paroys del act de 23.H.8. esteant, And also to reforme, repaire & amed the said walls, ditches, bankes, gutturs, sewers, &c. and the same (omitting these words, and other) as often and where neede shall bee, to make newe, et le formier clause concernant execution des formier statutes & ordinances est restraine oue ceur paroys, touching the premisses, que referront solement a repariter launcient mures ou sewers, ou de faire eux nouell: & auxy un subsequent clause, That all and euery statute &c. heretofore made concerning the premisses (que restraine cest clause vt supra) not being contrarie to this present act, nor heretofore repealed, shall stand bee good and effectuall for euer: issint q C Fuit resolute per les dits Justices, q per force del dit coimission founct sur lact de 23.Hen. 8. les commissioners ne poient faire le dit nouell riuier hors del maine terre pur quater causes: 1. que cest act prescrive le maner et forme del commission in expresse paroys, que extandonnt solement al reparation et nouvel seisaunt des auncient mures, gutturs, &c. 2. que ceur paroys, & alia, que fueront include in lestatute de 6. Henric 6. et tous les ditz acts, sont omis hors de cest commission: 3. tous les formier acts fueront pur un temps, mes cest act que estable cest coimission est fait perpetuell per lestatute de 3. Edward 6. capi 8. et pur ceo serà dure a enlager ceo ouster les paroys, & a doner power aux commissioners a trier nouell inventions al charge de pays, queux paraduëture ne vnques prendront bone effect, mes via trita est tutissima: 4. appiert p le Registre, in le brieve de Ad quod damnum fo.252. & F. N.B.225. que si auncient fosse ou trèche beignant del mier a un ville, per que bateux ou bessels bles de passer al dit ville, oze si ceo soit estoppe per le outrage del mere, & home boille suer al roy dauer licence a faire nouvel trenche & de estopper launcient trenche, il couient priuies suer Ad quod damnum a scauer a quel damage ceo serà al roy ou as autres; per que et per le brieve in le Registre de antiqua trenchea obstruenda & noua facienda seu habenda, appiert que nul tel nouvel trenche ou riuier que turgera al mier poet estre fait sauns brieve de Ad qd damnu, et sur c de obteins licence le Roy a ceo faire car si aucun commissioners poient ceo faire ex officio, grand inconuenience sur e pur priuat lucre poit ensuer, tibsi p publicqz damage ou stopping des hauës (q sont les portz del realm)

La iiiij

et

Cafe del isle de Elie.

et auters common riuers, come particular nusance & preiu-
dice al priuate homes, per surrounding de lour terres & in-
heritance, Et pur ceo tiels nouel riuers ne poient estre fait
sans licence le roy foudue sur brieve de Ad quod damnum.
Vide brieve de Ad quod damnum in tiel case, quia optimum.
Mes fuit resolute, que s'icomme nouvel inuention, come dun ar-
tificial Molin de eiecter le ewe, ou dun grand riuier hors del
maine terre, & autiels semblables, ne sont garrant per le dit
commissiō sur le dit act de 23. H. 8. quia nihil semel inuentum est
& perfectum, issit q̄nt vn veiel sewer est nouel fit deste fait ou
tiense, aſc petit alterac̄, in respect del natural change del cur-
rent ou auternit, vut le publicque bien de tiel lieu (& issint in
autiels tales semblables) poet este fait : Issint q̄nt vn aunc-
ient mure p̄ le extreme rage del ewe est dicupt, a prelezū les
tres deins in le leuell del inundac̄, vn aut mure, in case de in-
evitable necessit̄, p̄ le bien publicque de cest part, poet este fait
a defēder le people & lour tres deinz in le leuell, car cest maner
de defēnce p̄ walling nest pas nouvel inuenç, mes aunciet boy
et meane bien approue p̄ experiance, & si le matter ceo nest
forsque nouvel feasang del ancient wal in lieu per inevitable
necessitie plus apt que laut : mes si p̄ le timely reparatio del
veiel mure lextreme perill poet este auoide, nul auſ doet este
fait, car si affueris mederi possis noua non sunt tentanda, mes q̄nt
nouel inuention sont propose, cōe est auant dit, si ilz sont a-
perm̄t profitable, nul oſſi del terre la boille Denier a fayze
contribuē pur son bone aduantage, & donq̄s ceo doit ſe fait
per lour voluntary consent & charge & nemy p̄ coerc̄ p̄ force
del dit commission de Sewers sur le dit act de 23. H. 8. mes
ascuns foits q̄nt le publicque bien est p̄tended, vn priuate be-
neſit est intended ; & si alcun tiel nouvel inuention soit in ve-
ritie (q̄ raro aut nunquā fit) bone p̄ le bien publicque, & vn̄ nul
coſent poet este obteine al fesance de ē, donq̄s la est nul reme-
dy mes a complaiſit in parliaſit & la a puider reliese, come Sir
John Pophā iades chiese Justice Denglittere fist, q̄ exhibite
bill in parliaſit an. 3. lac. p̄ feſtant dun nouvel riu in le dit Isle,
le quel il in sur son grand charge ad cōmence, lachant q̄ lans
act de pliaſit nul poet este arcte per force del cōmission de
Sewers a contributer a tiel nouvel attempt, mes le bill fuit
tout ouſterit reiect.

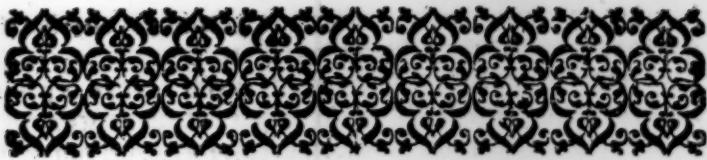
C Fuit auxy resolute, que nul poet este taxe verg le repa-
rac̄ &c. mes ceux que ount preiuadice, damage, ou disaduan-
tage per les dits nusances ou defaults, & queux prient auer
bene-

Case de isle de Elie.

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benefit à profit per le reformation ou remouving de eux. Audi,
que le taxatio, assessement, à charge doit à ceut qualitez, 1. doit
être solonqz le quantite de lour terres, tenement à rents, & per le
number des acres & perches, 2. solonqz le rate de chescun per-
sons portion, tenure ou profit, ou del quantite del common
de pasture, ou del fishing ou autre commodite: 3. pur ceo fait
elerent résolue p eux, que le dit taxation generalint dun se-
veral summe in grosse s v n ville, nell garrantie p lour comis-
sion, mes doit auer este particular, solonqz les exp̄es parolz
sur chescun own ou possessor d tress, tenements, rents, &c. obser-
uant les dits qualitez auant ditz. Et est destre obserue que
sont trois maners de statutes queux concernent **Hevers**:
les prim consistont in defendendo & reparando wallias, seweras
&c. les 2. in distruendo & amouendo nocumenta &c. les 3. queux
concernent ambideux les pointz, tam in distruendo quam in
defendendo: del prim sort, sont Magna charta c. 15. & 16. 5. H. 6
c. 5. 18. H. 6. c. 10. 23. H. 6. c. 9. 12. E. 4. c. 6. 4. H. 7. c. 1. 6. H. 8. c. 10.
del second sort, sont Magna charta c. 23. 25. E. 3. c. 4. 45. E. 3. c. 4.
1. H. 4. c. 12. 9. H. 6. c. 9. 12. E. 4. c. 7. del tierce sort des statutes,
queux concernent ambideux les form sortes, sont 23. H. 8. c. 3.
25. H. 8. c. 10. 3. E. 6. c. 8. & 13. Eliz. c. 9.

Mich.



In Curia VVardorum.

Mich. 10. Jacobi Regis.

Scropes case.



C case inter Thomas Budges & Anne
sa femme pl. & Eliz. Scrope & autres deſe-
dants fuet tieſt: Nich. Scrope leſſi in ſeſ-
des mannoz de Harleſton & Mount, et
aiat iſſue le dit Anne vn deſ pl per Min-
fride ſa fée, p Indenture dated 26. Jun' 23.
Eliz. pur le pfermet de Minfride ſa femme
et Anne leur filie ouenant oue diuers a estoier ſeſſie des dits
mannoz al oeps del dit Nicholas, Minfride, & Anne pur
leur vieſ & puis al dit Anne & a les heires de ſon coṛps oue
aut erg reſhi ouſter, oue vn prouiso que ſi le dit Nich. durant
ſon vie, & ayres lez deſ paymentio in vn ſchedule annexe al
Ind enture ſerf diſpoſe ou a determiſi, diſanuller, changer,
alter, inlager, diſminiſher, ou a faire boide the vſes or estates
or any of them of the premitſes or any part thercof, that then it
ſhalbe lawfull to and for the ſaid Nicholas at all times at his plea-
ſure, by his writing indented vnder his hand and ſeale ſubſcribed
in the preſence of three wiſneſſes, to determine, diſannull &c. and
also by the ſame writing at his will and pleaſure, or any other writing
whatſoever ſigned and ſubſcribed as is aboueaſide, to limit,
declare and appoint the vſes of the ſame to the persons aboueaſid,
or to any other persons, &c. Minfride moruſt, le dit Nichol,
espouse Eliz. Morice, p Indenture vlt' Nouēb. 33. Eliz. ſub-
ſcribe in le preſence de 3. teſtmoignes in conſiderac dun ioim-
ture deſte fait al dit Eliz. couenant oue Wykes & Warneford
a estoier

a estoier leisie del dit manu de Harleston al vse del dit Rich.
et Eliz. pur lour bies & puys al oeps des droit h̄es del dit
Rich. &c. & auters conueiances del see simple fuz faitz ap̄s.
¶ Et fuit resolute per les 2. chiese Justices & le chiese Baron, que
coment que in cest case nest pas aucun exp̄res significac de
son purpose ou determinac a determiner, disanuller, &c. vñc
in tant que y le dit Indenture de an' 33. El. il couenat a estoier
leisie al vse de luy in & del dit Eliz, adonques la feme, et
ynis a ses droit h̄es, ceo inure a 2. intents; i. a declare son
purpose & determinac a determiner, disanuller &c. & per cipso
facto les forxn vleg cesse; & 2. le couenant in in l' indenture in-
ure a raiiser nouvel vse al dits Rich. & Eliz. la feme & al h̄es
del dit Nicholaz; & issint fuit resolute in vn case in le banke le
roy inter Frampton & Frampton Tr' 2. lāc. regis, quia non refert
an quis intentione suam declarer verbis, an rebus iplis, vel factis, et
quant il limit nouvel & auters vleg, il per c signifie son pur-
pose a determiner & alter les vleg parauant. ¶ Mes fuit
resolute que tous incident circumstancies prescrive per le pr-
uiso, quant al subscription, testimonies, & auters circum-
stances, doient este obserue in le 2. Indenture.

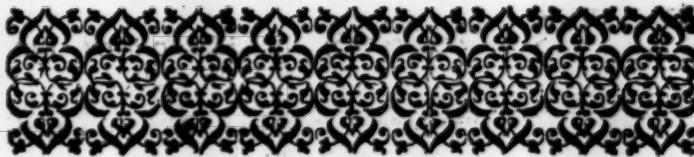
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Ca-

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the first time I have seen it. It is a very
handsome bird, with a long crest, and
is about the size of a pheasant. It has
a black head, neck, and breast, with
white spots on the sides of the neck,
and a white patch on each wing.
The body is white, with black stripes
on the back, and a black tail.
It is a very tame bird, and is
easily caught. It is found in
the woods and fields, and is
very common in the country.

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dorum.



Nomina tam Iusticiariorum vtriusque banci & Baronum Scac-
carij, quam Seruientium ad Legem tempore editionis decimi hu-
ius Commentarij.

Edwardus Coke, miles.
Del banke Iohannes Crooke, miles.
le Roy. Iohannes Doderidge, miles.
 Robertus Houghton, miles.

Henricus Hobart, miles.
Del cōmon. Petrus Warburton, miles.
Banke. Humfridus Winch, miles.
 Augustinus Nichols, miles.

Laurentius Tanfield, miles.
Del Esche- Georgius Snigge, miles.
quer. Iacobus Altham, miles.
 Edwardus Bromeley, miles.

Henricus Mountague, miles.
Seruientes Iohannes Sherley.
ad legem. Thomas Harris.
 Robertus Barker.
 Richardus Hutton.

F F N F S.



